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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JUSTIN MICHAEL WILKENS,

Plaintiff,

v.

ROBERT WAYNE EDWARDS, in his
individual capacity; **THE STATE OF
OREGON**,

Defendants.

Case No. 6:14-cv-00907-MC

DECLARATION OF HEATHER J.
VAN METER

I, Heather J. Van Meter, hereby declare:

1. I am a Senior Assistant Attorney General for the Oregon Department of Justice, and represent defendants in the above-captioned case. I have personal knowledge of the following and am competent to testify to the same.

2. Attached as **Exhibit A** is a true and correct copy of relevant excerpts of Defendant Captain Edwards' deposition taken on April 29, 2015.

3. Attached as **Exhibit B** is a true and correct copy of relevant excerpts of Plaintiff Wilkens' deposition taken on April 15, 2015.

4. Attached as **Exhibit C** is a true and correct copy of the various citations issued to plaintiff as a result of plaintiff's actions on August 3, 2012, all issued by Lane County Sheriff's Office.

5. Attached as **Exhibit D** is a true and correct copy of the DVD with the August 3, 2012 digital recording which was captured onboard the police vehicle with Captain Edwards. A true and correct DVD copy of the digital recording is simultaneously being mailed to the court and plaintiff's counsel.

6. Attached as **Exhibit E** is a true and correct copy of the readily accessible CAD reports regarding the armed bank robbery incident that precipitated the events in question.

7. Attached as **Exhibit F** is a true and correct copy of the report of the Independent Medical Examination conducted by Dr. Scott Kitchel on June 3, 2015.

8. Attached as **Exhibit G** is a true and correct copy of the Oregon State Police policy relating to halting vehicles in high-risk stops.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on June 22, 2015.

s/ Heather J. Van Meter
HEATHER J. VAN METER
Senior Assistant Attorney General

Robert Edwards

Wilkins v Edwards and State of Oregon

April 29th, 2015

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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

EUGENE DIVISION

JUSTIN WILKENS,)	
)	
Plaintiff,)	
)	
v.)	No. 14-CV-00907
)	
ROBERT EDWARDS, in his)	Volume I of II
individual capacity;)	
THE STATE OF OREGON;)	Pages 1 to 101
)	
Defendants.)	

DEPOSITION OF CAPTAIN ROBERT EDWARDS

April 29, 2015

Wednesday

11:56 A.M.

THE DEPOSITION OF CAPTAIN ROBERT EDWARDS, was taken at the Department of Justice, 1162 Court St. NE, Salem, Oregon, before Jan R. Duiven, CSR, FCRR, CCP, Certified Shorthand Reporter in and for the State of Oregon.

APPEARANCES

For the Plaintiff:

MS. LAUREN C. REGAN

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For the Defendants:

DEPARTMENT OF JUSTICE

Trial Division

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BY: MR. ANDREW D. CAMPBELL

andrew.d.campbell@doj.state.or.us

Also Present:

MS. LOREE FOGLEMAN

MR. JUSTIN WILKENS

Reported by:

JAN R. DUIVEN, CSR, FCRR, CCP

1 CAPTAIN ROBERT EDWARDS,
2 having been first duly sworn to testify the truth,
3 the whole truth, and nothing but the truth, was
4 examined and testified as follows:

6 EXAMINATION

7 BY MS. REGAN:

8 Q. All right. Good morning.

9 A. Good morning.

10 Q. Let's start by having you state your
11 name for the record, and if you wouldn't mind
12 spelling it.

13 A. Robert Edwards. R-O-B-E-R-T,
14 E-D-W-A-R-D-S.

15 Q. All right. And have you ever been
16 known by any different names other than that name?

17 A. Rob.

18 Q. Okay. And is your date of birth

19 [REDACTED]

20 A. Yes, ma'am.

21 Q. Okay. And today's deposition is
22 focusing on an incident that occurred on
23 August 30th of 2012.

24 A. August 3rd, I believe.

25 Q. I'm sorry. August 3rd of 2012. That

1 respect you back. So if you respect them, they'll
2 respect you back.

3 Q. Okay. And how -- what is your
4 personal style or how do you interact with people
5 when you believe they are not doing what you're
6 asking them to do or they're not complying with
7 your instructions?

8 A. You have to get the point across that,
9 you know, me as a law enforcement officer is
10 taking control of the situation.

11 Q. And how do you do that?

12 A. Through red and blue lights, through a
13 uniform, through verbal commands, verbal cues.
14 Then if it continues, then you start going up the
15 use of force continuum until you gain compliance.

16 Q. Okay. Have you ever lost your cool or
17 lost your patience with a citizen that you've
18 detained for a traffic stop?

19 A. Not that I'm aware of, no.

20 Q. Here's a fun question. If you had to
21 put an approximate number on the number of traffic
22 stops that you've done in your 18 years as a
23 police officer, what would you approximate?

24 A. Ten -- between -- this is a total
25 guess, 15,000.

1 portion.

2 Q. Okay. And was there anything else?

3 A. There was. I'm trying to remember
4 what it was. Failed to notify the pointing of the
5 firearm, and I think failed to notify of the use
6 of -- a portion of the use of force, I believe. I
7 may be mistaken on that.

8 Q. Okay.

9 A. But, again, this was two years ago.

10 Q. And both of those, to your
11 knowledge -- to your recollection, resulted in a
12 written reprimand?

13 A. I believe so.

14 Q. Okay. And that goes in your permanent
15 disciplinary file?

16 A. It goes into my personnel file, yes.
17 I don't know how permanent it is.

18 Q. Okay. Are there any other
19 consequences of a written reprimand?

20 A. No.

21 Q. Okay. So as captain -- my
22 recollection from reading the documents when you
23 were a lieutenant, you were head of the
24 Springfield command. Is that correct?

25 A. Yes, ma'am.

1 Q. Okay.

2 A. Drove my personal vehicle to work that
3 day I'm assuming because I had a meeting or had to
4 do something or pick my girl up from school or
5 something.

6 Q. Okay.

7 A. So I did not have my assigned car.

8 Q. Okay. So how did you end up driving
9 the Camaro that day?

10 A. Something occurred. I decided I need
11 to go look for some bank robbery suspects, and I
12 grabbed the keys to that car to drive -- two
13 reasons. It was easily available. The keys are
14 in the box, in the assigned ADEP box.

15 Two, the location I was going to go to
16 look for these bank robbery suspects was very
17 rural and I wanted to blend in in the parking lot
18 to watch an intersection. I didn't want to be in
19 a marked unit.

20 (Reporter inquiry.)

21 THE WITNESS: A -- aggressive
22 driving enforcement program. ADEP.

23 BY MS. REGAN:

24 Q. Had you ever driven the Camaro prior
25 to August 3rd?

1 better.

2 They do handle a little bit different.
3 They -- you know, power-wise, they're not nearly
4 as powerful as our Chargers. The Camaro has a V6
5 versus the powerful V8s that our Chargers have.

6 Q. Okay. Are there any mod -- other
7 modifications to the Camaro that are used for
8 police work?

9 A. Typically just a radio, a roll bar,
10 and a bunch of red and blue lights on it. And a
11 siren.

12 Q. Okay. So the tires on the Camaro, are
13 they standard tires for a Camaro?

14 A. Speed-rated tires, yes.

15 Q. Okay. Is there anything modified with
16 regard to the braking system?

17 A. I don't believe so.

18 Q. So there's no button inside the
19 vehicle that you press to assist with brake fade
20 or anything like that?

21 A. No.

22 Q. Okay. And do you recall where the
23 lights are located on the Camaro?

24 A. I believe they are down on the center
25 console. It's a toggle switch or buttons, but

1 down on the center console.

2 Q. So kind of where the shift would be?

3 A. Just forward of that, yes.

4 Q. And there is -- I think you said a
5 switch or a button that you hit to make them
6 function?

7 A. That's correct.

8 Q. Okay. And what about the siren?
9 Where would the siren button be located?

10 A. Same location.

11 Q. Okay. And where are the actual lights
12 physically located on the outside of the vehicle?

13 A. In the grille, in the front
14 windshield, and on the outside near the
15 headlights.

16 Q. Okay. So the grille, I assume you
17 mean one on each side, sort of near where the
18 headlights would be located?

19 A. I'd have to look at your pictures to
20 tell exactly where they're at.

21 Q. You're welcome to.

22 A. So you've got a red and blue light in
23 the top of the windshield. You've got red and
24 blue lights in the grille. You also have red and
25 blue lights down near the spoiler.

1 Q. And can you be more specific? Is
2 there one red light and one blue light on each
3 side or how -- can you give me a little more
4 detail if you recall?

5 A. I don't recall.

6 Q. Okay.

7 A. Based on the photos and based on my
8 memory, I -- I haven't seen the front of this car
9 with its lights on in a long time. So I know you
10 got a red and blue light for sure on the top of
11 the windshield. I believe you got a -- I think
12 you might have red and blue lights on both sides
13 of the grille, both sides of the Chevy emblem.
14 You also --

15 Q. Meaning near the center, like on
16 either side of the license plate?

17 A. No. On the outside.

18 Q. Oh, I see. Okay.

19 A. Near the headlights.

20 Q. Okay.

21 A. You're also going to have headlights,
22 called a wig-wag. Your headlights are going to be
23 fluctuating on and off also.

24 Q. Your headlights themselves?

25 A. The headlights themselves.

1 Q. Okay. So just -- just to be clear,
2 let's start at the ones that are up on top of the
3 windshield. They are centered, it looks like, on
4 either side of where the rearview mirror would be
5 located. Is that accurate?

6 A. I would say --

7 Q. That --

8 A. -- sitting in the driver's seat to the
9 right of the rearview mirror.

10 Q. Okay. To the right. But not to the
11 left?

12 A. No.

13 Q. So there's only one light?

14 A. That would block the operator's --
15 that would obscure an operator's view. So it
16 would be on the right side of the rearview mirror.

17 Q. Okay. Just one light, though?

18 A. One red, one blue.

19 Q. Meaning there are actually two lights
20 there or it rotates from red to blue?

21 A. I think there's two. Based on that
22 red light, it is more closer to the center. Based
23 on that blue light, it looks like it's over to the
24 right further.

25 Q. Okay. So there are two actual lights,

1 one is red, one is blue. They are to the right of
2 the rearview mirror if you're driving the car, and
3 those toggle back and forth between red and blue?

4 A. Yes.

5 Q. Okay. And that is -- is that an
6 accurate picture of what they look like in broad
7 daylight?

8 A. No.

9 Q. How -- how would you correct that?

10 A. You have a small video, which would
11 give you an accurate -- an accurate depiction of
12 how fast -- this is just a still shot of -- all
13 you see is one red.

14 So if you play it over the -- over the
15 course of several seconds, you will get a much
16 better accurate depiction of the lighting system.

17 Q. Okay. And what -- what do you think
18 would be more accurate? Like describe what you
19 think would look different or how would it look
20 different.

21 A. You would get a better visual
22 observation of the rapid succession of the red and
23 blue lights flickering on and off.

24 Q. Okay. So the flashing of the lights
25 or the flickering of the lights. But other than

1 that is the brightness accurately depicted?

2 A. Personal opinion, no.

3 Q. Okay. And how would you explain why
4 not?

5 A. Can't tell you.

6 Q. Okay.

7 A. I know when I was standing in front of
8 the car they look brighter than what the photos
9 are depicting.

10 Q. Okay. And how about the color?
11 Are -- is the blue and the red accurately
12 depicted?

13 A. I guess.

14 Q. Okay. So then moving to the set of
15 lights that are to the left and right of the upper
16 headlights on either side of the Chevy --

17 A. Here and here?

18 Q. Yes.

19 A. Okay.

20 Q. Are those lights -- are those police
21 lights?

22 A. Yes.

23 Q. Okay. And they are mounted to the
24 right and left, respectively, of the headlights?

25 A. I believe so, yes.

1 Q. Okay. And is one of those blue and
2 one red?

3 A. I don't recall. I don't know if
4 you've got a red and blue on each side or if
5 you've got a blue on this side and a red on that
6 side. I don't recall.

7 Q. Okay.

8 A. And the pictures I have are not
9 helping me out.

10 Q. Okay. Do they toggle back and forth?

11 A. Yes.

12 Q. Okay. So the one on the left appears
13 to be blue. Is that correct?

14 A. On the right side -- if you're facing
15 the car, yes.

16 Q. Okay.

17 A. On the left.

18 Q. So yes. If you were the driver of the
19 car, the light adjacent to the right headlight
20 would be blue and always blue?

21 MR. CAMPBELL: Maybe you could just
22 say "passenger's side" and "driver's side."

23 MS. REGAN: Okay. That's good.

24 BY MS. REGAN:

25 Q. So passenger side near the headlight,

1 that light is blue?

2 A. It is blue. But I'm not sure if
3 there's a red one next to it or not.

4 Q. Okay. But there is another light
5 similar to that on the driver's side near the
6 headlight?

7 A. I believe so, yes.

8 Q. Okay. And are there any other lights
9 at that level of the headlights?

10 A. Looks like we have some smaller LED
11 lights on the interior side of the -- on the inner
12 side, if you will, by the Chevy emblem itself too.
13 Probably one on each side.

14 Q. Okay. And can you explain -- so this
15 is a light that's much smaller than the other
16 lights you've previously described, or what is the
17 distinction with an LED light?

18 A. I'm just going based on the photo. It
19 appears to be an LED light. I may be -- maybe I'm
20 speaking out of turn. I don't know if it's an LED
21 light. But it appears to be based on the photo.
22 But regardless, you do have a red -- blue light
23 here.

24 Q. Uh-huh.

25 A. So I can only assume next to the blue

1 light or adjacent to the blue light you're going
2 to have a red light also.

3 Q. Okay.

4 A. And I don't know if it's on the same
5 side or opposite side.

6 Q. Okay. And then at the level of the
7 license plate -- I'm sorry. I forget what you
8 called that area of the car.

9 A. I forgot what I called it also.

10 Q. Okay. We'll call it the license plate
11 level.

12 MR. CAMPBELL: We can call it the
13 fairing.

14 MS. REGAN: The fairing?

15 MR. CAMPBELL: Uh-huh.

16 MS. REGAN: All right.

17 BY MS. REGAN:

18 Q. So at the fairing level of the
19 vehicle, there appears to be another set of
20 lights. Is that correct?

21 A. Yes.

22 Q. And can you describe those lights?

23 A. Ah, those would be -- typically what
24 would be referred to as your fog lights. But I
25 believe we have red and blue lights in lieu of

1 your standard white light.

2 Q. Okay. And do you know whether those
3 toggle back and forth?

4 A. I believe they do.

5 Q. Okay. And is it accurate to say that
6 the lights on the driver's side of the vehicle are
7 all red, and the lights on the passenger's side
8 are all blue?

9 A. From this still photo it appears so,
10 but I -- I'm not sure.

11 Q. Okay.

12 A. I'd have to watch the -- I would
13 imagine somewhere on the left side or the driver's
14 side there should -- there would be some blue
15 lights also, but I'm not 100 percent sure.

16 Q. Okay. And so that's not something
17 standard in police vehicles where one side's all
18 red and one side's blue?

19 A. No.

20 Q. Okay. Displaying my ignorance there.

21 Okay. And so are there any other
22 lights on the front of the vehicle that -- apart
23 from normal headlights or turn signals?

24 A. We have -- on the sides, we have a
25 little -- bubble LEDs. You can't see it. Well;

1 that one there. (Indicating.)

2 Q. Okay. So that is below the turn
3 signal light?

4 A. Yes.

5 Q. So below the turn signal light at the
6 fairing level is an LED light?

7 A. I believe.

8 Q. Is it colored?

9 A. Yes.

10 Q. And would it be blue and red again?

11 A. Yes.

12 Q. Okay. And is -- is that light -- it's
13 a little difficult to see because of the damage to
14 that part of the vehicle, but is that visible from
15 the front or is that something that you see if
16 you're on the side of the vehicle?

17 A. It's designed more for the side of the
18 vehicle.

19 Q. Okay. All right. Any other lights?

20 A. Not that I'm aware of.

21 Q. Okay. Do you happen to know the
22 mechanics of how the siren operates, like where is
23 the siren actually located?

24 A. Somewhere in that area. (Indicating.)

25 Q. In --

1 Q. Was it --

2 A. There were a lot of motorcycle
3 training, riding techniques, riding ability, lots
4 of training with the riding.

5 Q. Okay.

6 A. I don't know what -- how many hours or
7 what type.

8 Q. Okay. And you were never exposed to
9 any of that --

10 A. No.

11 Q. -- in your employment? Okay.

12 So what is the protocol for stopping
13 someone you believe has committed a traffic
14 violation in 2012, in August of 2012?

15 A. Okay. Assure you got probable cause
16 to believe that the individual committed the
17 violation. Catch up to the violator. Find a safe
18 spot alongside the roadway to stop that person.
19 Preferably before, call out the location to your
20 dispatch center, vehicle plate and location. And
21 provide the license plate and then activate your
22 red and blue lights.

23 Q. Okay.

24 A. And then they pull over. You pull in
25 behind them. You have a discussion about the

1 violation. You ask for driver's license,
2 registration, insurance. Make a determination if
3 you want to issue that person a citation and/or
4 verbal warning. Make your determination.

5 And sometimes check them through LEDS
6 and NCIC for their driving status and wants check.
7 Sometimes not. And then make your determination
8 to issue the citation or the warning and allow
9 them to be on their way.

10 Q. Okay. And so is there a procedure
11 that you radio in to dispatch prior to turning on
12 your lights as you had just described?

13 A. In a perfect world, yes. Sometimes
14 you turn your lights on first, get them to slow
15 down, so you can get close enough to see the
16 license plate, and then you can call out the
17 license plate at the same time that they're
18 yielding to the side of the road.

19 Q. Okay.

20 A. But either way is fine.

21 Q. Okay. And what about the use of a
22 siren in that scenario? You didn't really mention
23 turning on the siren or using the siren. Is there
24 any rule or training or policy regarding the use
25 of the siren?

1 A. On a standard traffic stop?

2 Q. Yes.

3 A. No need.

4 Q. No need to use a siren?

5 A. No.

6 Q. Okay. And is there anything -- as
7 you're engaging in a traffic stop, is there any
8 time where a siren would be required?

9 A. Not that I can think of.

10 Q. Okay.

11 A. I'm sure there's a million scenarios
12 maybe, but I can't think of one right now. For
13 your standard run-of-the-mill traffic stop there's
14 no need to engage your siren.

15 Q. Okay. And would that change if you
16 were engaging in a high-speed chase?

17 A. Yes.

18 Q. And how would it change?

19 A. Department policy says you got to have
20 your siren on.

21 Q. And when would it be -- when would you
22 be required to utilize the siren?

23 A. When you've made a determination that
24 you're in pursuit of and/or feel that the person
25 is failing to yield, you might be getting -- you

1 might get behind a little old lady who doesn't see
2 you. Might be trying to activate your siren a
3 time or two to get their attention. They may then
4 pull over, shut your siren off. Or if they don't
5 stop, continue to fail to yield, and/or attempt to
6 elude, you keep your siren on.

7 Q. Okay. So just to make sure that I'm
8 understanding, you are allowed to use high speed
9 yourself in trying to catch up to a speeder
10 without turning on -- without activating the
11 siren?

12 A. That's correct.

13 Q. Okay. And the use of the siren would
14 only be required if you needed a non-suspect
15 vehicle to yield to you, like the old lady
16 scenario you explained, so you would utilize your
17 siren in that circumstance?

18 A. You could, yes.

19 Q. Would it be required or it's
20 discretionary?

21 A. Discretionary.

22 Q. Okay. And I believe your testimony
23 also was that if the speeder -- if the target
24 suspect failed to pull over after utilizing the
25 lights, then you would activate the siren. Is

1 that correct?

2 A. You've got to draw the line in the
3 sand. Is it someone who's just failing to yield
4 or they're maybe not hearing you, maybe not seeing
5 you, maybe they're not paying attention, and
6 they're continuing to drive at or near the speed
7 limit, or they're -- the speed at which you're
8 trying to stop them. If they're not yielding, you
9 can hit your siren a time or two and attempt to
10 get their attention.

11 Q. Okay. Is that a requirement or just a
12 practice?

13 A. A discretion. A trooper does not have
14 to use it. He can stay behind them with their
15 lights and -- with just their lights on. They can
16 get out next to them with their lights on. Weave
17 back and forth to try to get that person's
18 attention.

19 Q. Okay. From your training and
20 experience, do you know -- is there a distance in
21 which a siren can be heard?

22 A. I don't know.

23 Q. Okay. And -- well, I'm going to wait
24 to turn to the incident, and we'll cover the
25 August 3rd incident all at one time. So I'll hold

1 A. No.

2 BY MS. REGAN:

3 Q. No. Okay. So I thought I had seen in
4 the training materials that there can be an
5 occasion where a police vehicle would physically
6 ram a vehicle to get it to stop or to get it to
7 pull over or something like that?

8 A. I guess we're instructed -- we're not
9 trained -- maybe I'm splitting hairs. I've never
10 been in a car with an instructor showing us how to
11 ram a car.

12 Q. Okay.

13 A. Okay. In our policy, under very
14 limited certain circumstances, we have the
15 authority to ram the car.

16 Q. Okay.

17 A. Or vehicle.

18 Q. And have you ever had the -- prior to
19 August of 2012, had you ever had the experience of
20 ramming a vehicle?

21 A. I have not.

22 Q. Okay. Now, I guess just to kind of
23 cross this line of questioning off, on August 3rd
24 of 2012, would it be fair to say that you did not
25 intentionally ram Mr. Wilkens's motorcycle?

1 A. I wouldn't call it a ram, but I did
2 not intentionally make contact with his
3 motorcycle.

4 Q. Okay. You were not using a ramming
5 tactic as described in the police training
6 materials?

7 A. Absolutely not.

8 Q. Okay. That skips over a whole lot of
9 questions.

10 What is -- what time -- should we
11 pause?

12 MR. CAMPBELL: It's about five to
13 noon right now so --

14 MS. REGAN: Okay.

15 MR. CAMPBELL: I'm fine with pausing
16 or I don't know what everyone else's comfort level
17 is like.

18 THE WITNESS: I could use the
19 bathroom.

20 MS. REGAN: Well, let's pause. This
21 is a good breaking point.

22 MR. CAMPBELL: Okay.

23 MS. REGAN: So we'll pause there and
24 grab lunch.

25 MR. CAMPBELL: Come back at one.

1 Q. Okay. And explain to me what the
2 difference is between a routine traffic stop and a
3 high-risk traffic stop?

4 A. A routine traffic stop is the most
5 common. Someone commits a traffic violation, get
6 behind them, turn the red and blue lights on, they
7 pull over to the shoulder of the road. You have a
8 discussion about the violation. You issue a
9 citation and/or a warning, and you allow them to
10 be on their way. That's your standard,
11 run-of-the-mill traffic stop.

12 Now, during the course of that, should
13 they reach into the center console quickly without
14 warning, I may pull my firearm. If they throw
15 their hand underneath the seat as if they're
16 trying to retrieve a weapon and they get their --
17 I may draw my firearm. So that's your standard
18 traffic stop.

19 A high-risk traffic stop would be if I
20 knew the car was stolen. I knew the occupants or
21 the occupants within the vehicle were armed and
22 dangerous following a high-speed pursuit,
23 something of that sort. That's when, at the
24 conclusion of the stop or the pursuit, we are
25 authorized and encouraged to pull our firearms to

1 BY MS. REGAN:

2 Q. Well, so, in general, I just wondered
3 if there were policies and/or training
4 requirements regarding high-speed chases, and I
5 guess if it makes more sense to break it down into
6 two parts we can do that.

7 Maybe what are the training and
8 policies regarding initiating a high-speed chase?

9 A. Okay. Initiating a chase or a
10 pursuit, it just happens. You stop the car for
11 whatever reason and -- either at low speeds, high
12 speeds, or medium speeds, if they know you're
13 behind them and they fail to yield, that -- that
14 automatically becomes a pursuit. Even if it's at
15 20 miles an hour and they don't yield, that's a
16 pursuit. So lights are on, sirens are on.

17 And during the course of that pursuit,
18 depending on the crime or potential crime, or
19 depending on information on the suspects, the
20 involved officer must constantly be using common
21 sense and taking factors into consideration such
22 as time of day, traffic flow, the speeds, the
23 potential suspect's driving capability, the
24 trooper's driving capability. You factor those in
25 and you're constantly weighing risk versus reward.

1 have a tactical vehicle intervention, which is
2 where a patrol vehicle, as long as they're not by
3 themselves and it's a safe area to do it, and the
4 speeds are within policy you come up, and you kind
5 of spin them out, if you will. You can't do that
6 with a motorcycle. Only four-wheeled vehicles; D,
7 depending on the level of the crime, if deadly
8 physical force is authorized, you can ram the
9 vehicle.

10 There's other pursuit techniques
11 such as slack pursuit, but as far as terminating a
12 pursuit, those are the -- those are the standard
13 authorized techniques.

14 BY MS. REGAN:

15 Q. Okay. So -- so just to make sure I
16 understand, with regard to motorcycles, it seems
17 like a number of the options are impermissible?

18 A. That's correct.

19 Q. So what are the permissible tactics to
20 stop a motorcycle during a high-speed pursuit?

21 A. Hope they run out of gas. Hope they
22 stop. Or if it gets dangerous enough, you let
23 them go.

24 Q. Okay. If you were to give me a best
25 estimate of how many traffic stops you've been

1 stop?

2 A. That number would -- that number would
3 increase drastically if we went into that
4 direction.

5 Q. Yes. Okay. Understood.

6 At the time of the incident that we're
7 talking about today, August 3rd, 2012, were you
8 familiar with Crow Road, the road that you were
9 driving on when pursuing Mr. Wilkens?

10 A. Yes.

11 Q. Was that a -- I mean, I know you
12 weren't doing a lot of patrol work at that time,
13 but was that an area that you had patrolled in the
14 past?

15 A. Yes, ma'am.

16 Q. With some amount of frequency?

17 A. I would say I was quite -- I was
18 familiar with the area. I didn't know the road
19 like -- you know, I know some other roads, but I
20 was familiar with the roads.

21 Q. Okay. Were you familiar, for
22 instance, of the curves in the road?

23 A. Yes.

24 Q. And were you familiar that it came to
25 a T at some point?

1 A. Yes.

2 Q. Had you -- now, on August 3rd --
3 you're in the ADEP vehicle, but you're not serving
4 as an ADEP patrol officer, are you?

5 A. Not -- I mean, was my main focus that
6 day to go out and enforce aggressive driving? No.
7 That wasn't my main purpose that day. My main
8 purpose at that time was to look for a couple of
9 armed bank robbers.

10 Q. Okay. And so I think somewhere in the
11 report it mentioned that you were actually heading
12 to a particular location. Is that right?

13 A. Yes.

14 Q. Do you recall what the location was?

15 A. Yes. The intersection of -- basically
16 Lorane. Lorane. The intersection of Cottage
17 Grove/Lorane Highway and -- I don't remember the
18 other name of the road. Smith Creek. It's a back
19 way from Florence.

20 Q. Okay.

21 A. From Mapleton.

22 Q. Okay.

23 A. So the bank robbery took place in
24 Mapleton. I figured other officers had the other
25 avenues back to Eugene covered, so I went to the

1 THE WITNESS: Yeah.

2 MR. CAMPBELL: All right. So listen
3 to the question she's asked and answer it.

4 BY MS. REGAN:

5 Q. Okay. Do you remember what
6 Mr. Wilkens's motorcycle looked like?

7 A. Yes.

8 Q. Can you describe what you recall?

9 A. It was a sports bike. Reddish-orange
10 and white.

11 Q. Do you remember whether it had
12 rearview mirrors?

13 A. I don't recall.

14 Q. Okay. And was your initial decision
15 to pursue Mr. Wilkens based on him passing your
16 vehicle at what appeared to be above the speed
17 limit?

18 A. Yes. My initial reason for contacting
19 him or attempting to contact him was for a speed
20 violation.

21 Q. Okay. Do you remember what
22 Mr. Wilkens was wearing?

23 A. Yes.

24 Q. Can you describe what you recall?

25 A. A full-faced black-and-white helmet, a

1 black protective riding jacket, black protective
2 riding gloves. I believe blue jeans.

3 Q. Okay. And did you form an opinion
4 about his skill level in riding the motorcycle?

5 A. I did.

6 Q. And what was your opinion?

7 A. He knew how to ride a motorcycle well.

8 Q. Okay. And were you able to visually
9 see him and the motorcycle during your entire
10 pursuit of him?

11 A. I believe so. There may have been one
12 corner where I may have lost sight of him briefly.

13 Q. Okay. And so in terms of trying to
14 put an approximate distance -- and I know there
15 was a range of distance -- but if you were to give
16 me an approximate range of distances between you
17 and the motorcycle during this pursuit, could you
18 estimate that?

19 A. At times, throughout the whole
20 pursuit?

21 Q. Yes.

22 A. At times we were touching. At other
23 times I was several hundred yards behind him.

24 Q. Okay. And touching, other than when
25 you collided with him, where -- were there other

1 quarter mile, maybe a little more. Maybe up to --
2 trying to catch up to him, trying to get a pace,
3 quarter mile, maybe a little more than that. Half
4 mile.

5 Q. Okay. So between a quarter mile and a
6 half mile, at the time that you turned on your
7 lights, do you have an approximate distance that
8 you could provide between you and the motorcycle?

9 A. I don't. I'd have to watch the
10 videotape. I don't recall how far ahead he was at
11 the time I activated my lights.

12 Q. Okay. And what was your reason for
13 activating your lights at that time?

14 A. Trying to initiate a traffic stop on
15 him for passing in a no-passing zone and speeding.

16 Q. Okay. And your vehicle didn't have
17 radar in it. Correct?

18 A. I believe it did. I believe it does.

19 Q. Okay. Did you utilize the radar on
20 August 3rd?

21 A. I did not.

22 Q. Why?

23 A. The type of radar we had at that time
24 would have been useless. I -- it only would catch
25 vehicles coming towards me.

1 Q. I see. Okay. How about was there a
2 VASCAR unit in the vehicle?

3 A. No.

4 Q. Okay. And what about a LIDAR system?

5 A. No.

6 Q. And so was your method for determining
7 excessive speed pacing?

8 A. Yes.

9 Q. Okay. And when you mentioned that
10 there was about a quarter mile to a half mile
11 before you turned on your lights, were you
12 attempting or did you actually pace Mr. Wilkens's
13 motorcycle during that time period?

14 A. I did. I was attempting to get an
15 accurate pace.

16 Q. Okay. And what was your estimate at
17 that time?

18 A. I never got an accurate pace. I know
19 I got to 80 miles per hour and he was still
20 pulling away from me. So if I'm going 80, and
21 he's going -- increasing the distance, common
22 sense tells me he's going in excess of 80.

23 Q. Okay. There was a time period where
24 he came upon a vehicle that was like a
25 dark-colored Honda. Do you recall that vehicle?

1 We'll watch the video.

2 A. Let's watch the video. I don't recall
3 if there was a dark-colored Honda. We -- we end
4 up passing two cars.

5 Q. Okay.

6 A. A pickup -- or a small pickup truck, I
7 believe, and then a passenger vehicle.

8 Q. Do you recall either of those vehicles
9 making some kind of signal to Mr. Wilkens to go
10 around them?

11 A. I wasn't watching the drivers of the
12 other vehicles at that time, no.

13 Q. Okay. And at the time that
14 Mr. Wilkens passed the first vehicle, do you
15 recall whether or not there were any other
16 vehicles coming toward him or, you know, was
17 the -- the pass done in a safe manner despite the
18 fact that it may have been a double yellow?

19 A. I have difficulty saying it was in a
20 safe manner when it's in a no-passing zone, so
21 it's my opinion it was unsafe.

22 Q. Okay. But there was no oncoming
23 traffic. Correct?

24 A. That's correct.

25 Q. And do you recall whether or not the

1 motorcycle slowed before passing the first
2 vehicle?

3 A. I believe it did. We were also into
4 the curves, so I don't know if he slowed to pass
5 it or slowed because we were in curves, but he did
6 slow.

7 Q. Okay. And with the second vehicle, do
8 you recall him slowing down quite a bit before
9 passing that vehicle?

10 A. Yes.

11 Q. Would -- would it be accurate to say
12 that he slowed down between 45 and 55 miles per
13 hour?

14 A. I believe that would be accurate, yes.

15 Q. And during that time period, were you
16 able to close the distance between yourself and
17 him?

18 A. I was.

19 Q. And were you able to read the license
20 plate number?

21 A. No.

22 Q. And why was that?

23 A. I don't believe I got close enough to
24 read the license plate. And I also believe the
25 license plate was kind of canted upwards, which

1 would have made it that much more difficult to
2 read it.

3 Q. Okay. Were there any issues with the
4 Camaro's dashboard -- not dashboard -- windshield
5 in terms of your ability to see the license plate?

6 A. No.

7 Q. And did you activate your lights prior
8 to Mr. Wilkens passing either of those two
9 vehicles?

10 A. I'd have to watch the video for sure,
11 but I believe I activated my lights shortly after
12 he passed the first pickup truck. Because I think
13 I had to turn my lights on to help get the pickup
14 truck out of my way so I could get around him.

15 Q. Okay. And do you recall when in the
16 pursuit you then activated your siren?

17 A. Approximately shortly before or
18 shortly after going around the second vehicle.

19 Q. Okay. And the video that we have of
20 this incident doesn't create -- doesn't have any
21 audio. Is that correct?

22 A. That's correct.

23 Q. Do you know why?

24 A. Because the system at that time, for
25 lack of a better word, was a piece of junk.

1 we have received in discovery is the front camera.
2 Is the back camera also filming out the back of
3 the vehicle as you're driving down the road?

4 A. Yes.

5 Q. And so is there back camera footage
6 that is available that would be picking up audio?

7 A. I believe there would be.

8 Q. Okay?

9 MR. CAMPBELL: You should have that.
10 If you don't, let me know. But we have it. I've
11 watched it.

12 BY MS. REGAN:

13 Q. Okay. And then I'm sorry if I asked
14 this. I think that your testimony was that you
15 believe you turned the siren on either right
16 before or right after Mr. Wilkens passed the
17 second vehicle. Is that right?

18 A. Yes, ma'am.

19 Q. Okay. And what do you -- do you have
20 any recollection about that second vehicle? You
21 know, was it pulling over? Do you recall a
22 description of it?

23 A. I don't.

24 Q. Okay. And I'm sorry if I asked this,
25 but what was your reason for turning on your siren

1 at that particular time period?

2 A. It was abundantly clear to me that he
3 was attempting to elude me so --

4 Q. Okay. All right.

5 A. So I was transitioning from a traffic
6 stop into a pursuit of a vehicle.

7 Q. Okay. And what was your -- explain to
8 me why you believe that he was attempting to elude
9 you at that time.

10 A. I had had my -- I had had my lights on
11 for a little while. He already made one bad pass.
12 He passes another vehicle at a high rate of speed.
13 And I believed that was a no-passing zone also.
14 And then accelerating away from me at a very high
15 rate of speed.

16 Q. Okay. And that demonstrated that he
17 was eluding you?

18 A. In my eyes, yes.

19 Q. Did you make any observation of him
20 looking at you or turning to look at you as -- in
21 your vehicle?

22 A. It's my opinion, yes.

23 Q. And what -- what did you observe?

24 A. I observed what appeared to me glances
25 over his left shoulder.

1 Q. Okay. And I think you testified
2 earlier that you have driven a motorcycle while
3 wearing a helmet. Correct?

4 A. I have.

5 Q. Okay. Do you recall ever trying to
6 look behind you while driving a motorcycle?

7 A. It was 25 years ago. I don't
8 remember, ma'am.

9 Q. Okay.

10 A. If I'm not mistaken, they're trained
11 to. I mean, that's what -- you're supposed to
12 check your blind spots like anybody else. So
13 you've got to check your blind spots, no different
14 than checking here versus checking what's right
15 behind you.

16 Q. Okay. Based on your perception that
17 Mr. Wilkens -- well, let me ask you this.

18 Was there anything else that made you
19 come to the determination that Mr. Wilkens was
20 intentionally eluding you?

21 A. Just based on my experience, ma'am.

22 Q. Okay.

23 A. You've got red and blue lights on,
24 I've got a siren on, I've got a motorcycle pulling
25 away from me at 100, 110, upwards -- sometimes

1 upwards to 120 miles per hour.

2 Q. Okay. Couldn't he have been joyriding
3 and enjoying driving fast, and possibly illegally,
4 but just driving fast on the curvy country road?

5 A. I have no idea what he could have been
6 doing. I'm basing that on my observations and my
7 training and experience.

8 Q. Okay.

9 A. So --

10 Q. Do you recall making a statement into
11 your cell phone along the lines of -- that he knew
12 how to ride, and if he had wanted to lose you, he
13 could have, something to that effect?

14 A. Probably. But -- after the fact I
15 figured out it was a 1,000 cc motorcycle. And
16 based on the riding observations I observed, he
17 potentially could have got away, especially if he
18 would have got into traffic.

19 Q. So the fact that he was driving really
20 fast and I think you testified that he appeared to
21 know how to ride fast, isn't it likely that if he
22 had actually wanted to elude you he would have
23 been successful at it?

24 A. I don't know, ma'am. I just -- my
25 experience chasing motorcycles, sometimes they get

1 away, sometimes they don't. Sometimes they pull
2 over, sometimes they don't.

3 Q. Okay.

4 A. In this case, I don't know if he could
5 have got away. I would like -- based on the
6 mention of the phone call, I just made a statement
7 that if he wanted to get away, he probably could
8 have.

9 Q. Okay. And when you start to approach
10 the T -- I'm sorry. I forget the crossroad. I
11 think it's Beltline, isn't it? It's been called
12 different words.

13 A. We can call it as Highway 126. It's
14 also called Beltline at that location.

15 Q. Okay.

16 MR. CAMPBELL: Isn't it also called
17 11th? West 11th?

18 THE WITNESS: West 11th. Yes, it
19 is. It's also West 11th.

20 MR. CAMPBELL: I love Eugene.

21 BY MS. REGAN:

22 Q. Yes. Okay. So as that approach is
23 happening, do you recall Mr. Wilkens looking in
24 his rearview mirror and then making some head
25 gesture that in my mind seems to say, oh shit, or

1 shit, or some -- he makes something like this
2 after he looks into his rearview mirror.
3 (Indicating.)

4 Do you recall that?

5 MR. CAMPBELL: Shall we turn the
6 camera around so you can do that head bob?

7 A. I didn't perceive it that way. I
8 perceived it looked like he was looking left and
9 right as if he was getting ready to --

10 BY MS. REGAN:

11 Q. Okay.

12 A. -- continue to make a left-hand turn
13 or a right-hand turn. Looking for cross-traffic.
14 That's how I perceived those head nods.

15 Q. Okay. And so did you see him put on
16 his blinker, his right blinker?

17 A. I don't recall.

18 Q. Okay. And I believe you -- in one of
19 your reports, you said that as he was slowing down
20 and in his mind coming to a stop, that part of the
21 reason that you struck his motorcycle was because
22 you were focused on trying to read his license
23 plate. Is that correct?

24 A. Yes, ma'am.

25 Q. Okay. And were you pretty adrenalized

1 at that time?

2 A. I'm not going to tell you I didn't
3 have adrenaline. But I wasn't adrenalized. I
4 mean, you know, they teach us how to breathe
5 through that thing and control it, so I wasn't
6 overly amped up by any means.

7 Q. Okay.

8 A. I was trying -- I was focusing on his
9 license plate. And, again, the license plate was
10 kind of tilted up. So I had to get close to it
11 to, you know, read it out and get it on -- get it
12 to my dispatch center so they could have that
13 license plate.

14 Q. And did you -- and I'm sorry if you
15 testified already to this, but as you're focusing
16 on the license plate, you do not notice that he
17 has a blinker on?

18 A. I did not.

19 Q. Okay.

20 A. I was focused on the license plate.

21 Q. Even though the turn signal would have
22 been right next to the license plate?

23 A. I didn't recognize if he had a
24 license -- a turn signal on or not. I don't
25 recall.

1 A. I have no idea. I really don't.

2 Q. Okay. Would it be easier to
3 approximate how many seconds or how many -- how
4 many minutes you would have been slowing down?

5 A. As we came down the hill at well over
6 100 miles per hour, so obviously I had to get on
7 my brakes fairly early to get some of that speed
8 scrubbed off, I would -- total ball -- you want a
9 ballpark estimate?

10 Q. Your best estimate.

11 A. My best estimate.

12 MR. CAMPBELL: If you don't know, "I
13 don't know" is a fair answer.

14 A. Yeah. I don't know.

15 BY MS. REGAN:

16 Q. Okay.

17 A. I really don't. I couldn't tell you.

18 Q. And I think you just testified, but I
19 want to make sure, at the time that you were
20 approaching the stop, I guess your testimony is
21 that there was a downhill right prior to that --
22 that intersection or that T.

23 A. Yes, ma'am.

24 Q. And was your testimony that you --
25 you, you're in the Camaro, were going about

1 100 miles an hour or what was your approximate
2 speed at that time prior to the stop?

3 A. Over 100 miles an hour as we're coming
4 down through a slight curve down a hill prior to
5 the intersection.

6 Q. Okay. And can you describe what you
7 were doing as you were approaching the T? And as
8 Mr. Wilkens was stopping his motorcycle, are you,
9 you know, standing up on the brake at this point,
10 is the brake squealing, are you riding the brakes?

11 A. I'm on the brakes trying to slow down
12 trying to match his speed. I'm on the radio
13 telling my location to my dispatch center where
14 I'm at. Then once -- once I'm able to get close
15 enough I'm fixated on trying to get the license
16 plate. That was my number one goal at that point.
17 I wanted to get the license plate.

18 I had made up my mind prior to this if
19 he makes a right-hand turn, I'm going to terminate
20 the pursuit, because there was just too much
21 traffic, and then that risk-reward thing would
22 have come in. So I really wanted to get that
23 license plate.

24 Q. Okay. And the camera in your vehicle
25 would have captured the license plate. Correct?

1 You could have reviewed the video footage and
2 ascertained the license plate. Is that correct?

3 A. If it was working. I didn't know the
4 thing was working.

5 Q. Okay. So in some of the reports that
6 I've read regarding this incident, there seems to
7 be some implication that one theory of why you
8 collided with Mr. Wilkens was as a result of brake
9 fade. But that wasn't your understanding of why
10 the collision happened. Right?

11 A. No. That's part of my theory.

12 Q. Okay. I thought it was that you were
13 really focused on the license plate?

14 A. Well, that's a portion of it too.

15 Q. Okay. So explain to me the portion
16 regarding brake fade.

17 A. We're fixated on the license plate
18 trying to get the -- read out the license plate.
19 When I make the mental -- it clicks in my brain
20 that he's coming to a stop or stopped, I hammer
21 the brake. I slam on the brakes as hard as I can.
22 And it doesn't respond as quickly and -- as -- as
23 quickly as I would have hoped. And I contributed
24 that to the hard driving from the previous five to
25 six miles on my brakes, off the brake, on the

1 brake, and the brake fade.

2 Q. Okay. Have you ever had a previous
3 experience in the Camaro using the brakes in that
4 way?

5 A. In which way? Where I've experienced
6 brake fade?

7 Q. As you just described. No. Where you
8 are driving fast and I think hammering the brakes
9 or hitting the brakes.

10 A. Yes. I've had -- I've driven
11 Camaros -- other Camaros, not that particular
12 Camaro -- where it doesn't matter what the patrol
13 car, Crown Vic, Dodge Charger. When you're in a
14 pursuit and you're using your brakes a lot, they
15 heat up. And when the brakes heat up they lose
16 their ability to work as well as a set of cool
17 brakes.

18 Q. Okay. And is there any mechanism or
19 training to ensure that you don't collide with
20 another vehicle under those circumstances? How do
21 police vehicles overcome brake fade?

22 A. Be aware of the situation. Be aware
23 of the phenomenon known as brake fade and increase
24 your stopping distances.

25 Q. Okay. So it's not that the vehicle

1 mechanic -- a mechanic?

2 A. Again, I don't know if we -- well,
3 ultimately, the vehicle did go to an auto body
4 shop to get repaired. So, yes.

5 Q. Okay. Were you aware that the brakes
6 had been looked at or adjusted by a mechanic a
7 couple of weeks before this incident occurred?

8 A. I was not.

9 Q. Okay. Did you ever have a mechanic
10 tell you or did you ever see a report that
11 indicated that there was a problem with the brakes
12 on the Camaro?

13 A. Not that -- not that I'm aware of, no.

14 Q. Okay. Okay. So I think that you
15 testified -- or I'm sorry. In one of your
16 reports, I think you said that you hit the
17 motorcycle at approximately three to five miles an
18 hour. Does that sound accurate to you today?

19 A. Yes, ma'am.

20 Q. Okay. And do you recall did you hit
21 the motorcycle straight on? Did -- did it seem
22 like you hit the vehicle in the center of your --
23 your -- of the Camaro?

24 A. No. Very apparent from the picture I
25 hit him on the right headlight area.

1 struck Mr. Wilkens, did you actually feel the
2 impact of the hit?

3 A. Lightly, yes.

4 Q. Okay. Were you watching him and the
5 motorcycle at the time that you made impact with
6 him?

7 A. Yes.

8 Q. And so do you -- what do you recall
9 seeing in terms of him and the bike going down?

10 A. I recall the pushing the bike forward,
11 and it appeared that he was attempting to stay
12 balanced on the bike, but ultimately fell off the
13 bike.

14 Q. Okay. And did the motorcycle remain
15 running?

16 A. I don't recall.

17 Q. Okay. And I think you indicated that
18 you were concerned that you were actually going to
19 run over him because of the direction -- he fell
20 in the path of your vehicle. Is that right?

21 A. He did.

22 Q. And do you recall how close you were
23 to actually hitting him with the wheels of the
24 vehicle?

25 A. Yeah. It wasn't nearly as close as it

1 appeared, based on me sitting, and the hood, and
2 me losing sight of him. But 10 -- you know,
3 15 feet in front of my patrol vehicle.

4 Q. Okay.

5 A. Would be an estimation.

6 Q. Okay. And then what do you recall
7 happening after he fell to the ground?

8 A. I exited my vehicle as quickly as
9 possible, drew my sidearm.

10 Q. And why did you draw your sidearm at
11 that time?

12 A. Because this was a high-risk stop.

13 Q. You had just knocked him off of his
14 bike. What were -- what were -- what was the
15 concern for your safety at that time?

16 A. It's unknown. He's -- he's -- in my
17 opinion, he's demonstrated an extreme attempt to
18 elude my -- elude me. Why he's eluding me, I
19 don't know. Maybe he didn't just rob the bank in
20 Mapleton, but maybe he just committed a robbery.
21 Maybe the bike is stolen. Maybe he's a drug
22 dealer. Maybe he's high on methamphetamine.
23 Maybe -- there's multiple reasons why people run
24 from the police so --

25 Q. But didn't he just stop on his own

1 volition prior to you colliding with him?

2 MR. CAMPBELL: Objection.

3 Argumentative. You can answer.

4 BY MS. REGAN:

5 Q. You can answer.

6 A. Sorry. He did.

7 Q. Okay. And -- and you've just knocked
8 him to the ground after colliding with his
9 motorcycle and he is on the ground. So under
10 those circumstances, what would be the serious
11 safety threat to you? He hasn't pulled a weapon.
12 He hasn't taken an aggressive stance. What was
13 your rationale for pulling your weapon on him at
14 that time?

15 MR. CAMPBELL: Object to the form of
16 the question. You can answer if you can.

17 A. He was a threat to me. He's a threat,
18 because he's attempted to elude me over the course
19 of five miles that -- at well over 100 miles per
20 hour so --

21 BY MS. REGAN:

22 Q. And now he's stopped?

23 A. So, in my opinion, obviously he's done
24 some type of criminal activity, which he's trying
25 to avoid me, let alone he's committed the class C

1 felony of attempt to elude a police officer. So I
2 can't take the risk of hoping he gets up and gives
3 me a hug.

4 I don't know why he's running, but my
5 experience where -- people run because they're
6 afraid of going to jail or being incarcerated.
7 So, my opinion, he's running for a reason. I
8 don't know that reason.

9 Q. Weren't you concerned that you had
10 injured him in the collision?

11 A. Sure, I was.

12 Q. And so he stands up on his own.
13 Correct?

14 A. Yes, ma'am.

15 Q. And he holds his hands like this.
16 Right? He's showing you his hands. Correct?
17 (Indicating.)

18 A. Correct.

19 Q. And did you take that as any kind of
20 violent gesture?

21 A. I did not.

22 Q. Okay. And you, I guess -- I mean,
23 you're welcome to testify to this too, but I guess
24 at some point you're telling him to get down on
25 the ground. Is that right?

1 A. Multiple times, yes.

2 Q. And why were you asking him to get
3 down on the ground?

4 A. That's my way of keeping myself, him,
5 and the surrounding people safe. I want to get
6 him on the ground in a pair of handcuffs as
7 quickly as possible.

8 Q. And would you agree that you had some
9 adrenaline coursing through your body at this
10 time?

11 A. A heightened level of awareness,
12 little bit of adrenaline. I'm not going to say I
13 don't have any, but yes. I was -- my awareness
14 level was definitely increased.

15 Q. Okay. And then on the video, it shows
16 him starting to go down on the ground when you
17 appear to kick him in the sternum. Would you
18 agree that that is what the video illustrates?

19 A. Yes.

20 Q. And so why were you -- why did you
21 deploy the kick as he was complying with your
22 request?

23 A. At the time that I had formulated the
24 mental plan to take a step forward and to deliver
25 a front push kick, it takes anywhere from a second

1 to a second and a half to make the determination,
2 get the neurons going to get the body in motion,
3 and at that time is when he begins to lower
4 himself, and I had already put that motion into
5 action.

6 Q. Did you hear him say anything to you
7 prior to you delivering the kick?

8 A. I did not.

9 Q. Were you aware that -- I mean, I
10 assume you were aware that he was wearing a
11 motorcycle helmet. Correct?

12 A. Full-faced, yes.

13 Q. And would you agree that his hearing
14 is going to be limited as a result of the helmet?

15 A. I would sure like to think if he's
16 standing from me to the door and I'm yelling at
17 him, he would -- and he's got a state trooper with
18 a gun pointed at him pointing to the ground and
19 yelling at him, he would comply.

20 Q. Okay. And, in fact, he was complying
21 at the time that you kicked him. Correct?

22 A. He was beginning to at the time the
23 kick was delivered, yes.

24 Q. Okay. And then after you kick him, he
25 does get down on the ground. Correct? He

1 complies with your requests and he gets down on
2 the ground. Right?

3 A. Partially, yes.

4 Q. Why do you say partially?

5 A. He didn't go all the way down onto his
6 belly. He was on his knees and on his forearms.

7 Q. Okay.

8 A. He wasn't -- his belly wasn't all the
9 way on the ground.

10 Q. And was that because of the gear that
11 he had on?

12 A. I wouldn't think. So I wouldn't think
13 the riding jacket and blue jeans would affect his
14 ability to lay on the ground.

15 Q. Okay. And once he is down on the
16 ground, the video camera no longer captures video.
17 Correct?

18 A. No. It continues to capture video.

19 Q. But you can't see what -- what
20 Mr. Wilkens is doing on the ground from the angle
21 of the video camera. Right?

22 A. It's obscured from the vehicle, but
23 the video was still running.

24 Q. Okay. And does your uniform -- well,
25 your uniform at that time, did you have audio?

1 Like are you able to be -- are you picking up from
2 radio? You know, is your radio able to capture
3 audio?

4 A. No, ma'am.

5 Q. Okay. And is that because you're --
6 you did not have a radio on your uniform at that
7 time?

8 A. A radio or a mic for the camera?

9 Q. A mic. Yeah.

10 A. I did not have a mic.

11 Q. Okay.

12 A. Again, I didn't even think the camera
13 system worked.

14 Q. Okay. Once Mr. Wilkens is down on the
15 ground, what do you do next?

16 A. Yell at him to put his hands behind
17 his back. Retrieve his right arm. Struggle with
18 his protective riding gloves and jacket in
19 attempts to get him handcuffed.

20 Q. Okay. And do you utilize your knee in
21 his back at some point?

22 A. I put my weight on his back. Yes,
23 ma'am.

24 Q. And did you put some knee -- the video
25 sort of depicts you bouncing up and down a little

1 bit on him. Are you using your knee to push his
2 body further into the ground?

3 A. Very initial --

4 MR. CAMPBELL: I object to the form
5 of the question. I don't think the video shows
6 that but --

7 (Reporter inquiry.)

8 MR. CAMPBELL: I don't think the
9 video shows that. You can answer.

10 A. Yeah. When I first make contact with
11 him, I grab his -- his right arm. I do. I put
12 both my knees in the middle of his back or on the
13 right side of his back to help shove him the rest
14 of the way onto the ground. Then I begin to
15 struggle with the gloves and the riding gear to
16 get him handcuffed.

17 BY MS. REGAN:

18 Q. Okay. And did you perceive him as
19 resisting your efforts to handcuff him?

20 A. No.

21 Q. Okay. Why didn't you just remove the
22 gloves before handcuffing him?

23 A. I did.

24 Q. Okay. So when you say you struggled
25 to handcuff him, what do you mean by that?

1 A. The right hand, I believe, if you
2 watch the video, I -- I sit there in this position
3 with my knees on his back. You can't see him, but
4 my knees are on his back. I'm on -- most of my
5 weight is on the balls of my feet and I am taking
6 his gloves off.

7 Q. Okay.

8 A. Off his right hand.

9 Q. Okay.

10 A. Then I'm able to get a handcuff on his
11 right wrist. Then I believe somehow I'm either
12 able to pull his jacket sleeve up and I'm able to
13 get him handcuffed with his left hand still --
14 with his glove on.

15 Q. Okay. And would you agree that you
16 apply the handcuffs in a manner that did not allow
17 for a pinkie distance between his skin and the
18 cuffs? Did you apply the handcuffs tightly?

19 A. I applied my handcuffs as I've been
20 trained.

21 Q. Okay.

22 A. They -- I did not cinch those
23 handcuffs down any tighter than anybody else.

24 Q. Okay. And then at some point you
25 assist him to his feet by grabbing one of his

1 armpits, I believe. Is that right?

2 A. I read him his Miranda rights and
3 decided to stand him up. Told him to extend his
4 right leg out. Bring his left leg into the --
5 into the inner thigh of his right leg. Then I
6 helped the forward upward motion with his left
7 arm, helped him to his feet.

8 Q. So where were your arm -- where were
9 your hands located on his body as you were
10 assisting him to his feet?

11 A. I would imagine one in the midback and
12 probably one under his arm.

13 Q. Okay. And do you recall how much
14 effort you needed in order to assist him to his
15 feet? Was he deadweight or was he --

16 A. Oh, absolutely not.

17 Q. -- on his own getting up?

18 A. The purpose for having them put their
19 right leg out and bringing their left leg in, it's
20 more of a push onto their knee, and then they're
21 able to help stand themselves up.

22 Q. Okay. And when he is laying on the
23 ground -- well, let me ask you this.

24 How long is he laying on the ground
25 before you assist him to his feet?

1 A. I would have to watch the video, but
2 an estimation, a few minutes.

3 Q. Okay. And from the time you handcuff
4 him -- and we'll watch the video in a minute --
5 but you leave the video vantage point for several
6 minutes. What are you doing during that time
7 period?

8 A. I'm telling my dispatch center that I
9 was just involved in a crash. Telling my dispatch
10 center that I'm code 4. I've got one detained.

11 Q. Tell me what code 4 means.

12 A. Everything's okay.

13 Q. Okay.

14 A. I'm safe. Suspect is safe.
15 Everybody's okay. Asking -- telling other units
16 where I'm at. Other responding units that are
17 coming to try to assist, telling them where I'm
18 at. And asking for sheriff's office to come and,
19 you know, investigate things.

20 Q. Okay. And did you make the decision
21 on your own to ask Lane County sheriff to do an
22 outside investigation?

23 A. I did.

24 Q. Okay. So your supervisor did not
25 instruct you to do that?

1 A. No. I did that on my own.

2 Q. Okay. And why did you leave, if there
3 is a reason -- why did his helmet remain on his
4 head during this time -- this entire time period?

5 A. Don't know.

6 Q. Okay.

7 A. What entire time period? Eventually
8 it was taken off. So what does --

9 Q. By Lane County Sheriff's officers,
10 though. Right?

11 Why -- I guess is there any reason why
12 you didn't remove his helmet?

13 A. No. I lifted his face mask for him
14 and don't know why I left his helmet on.

15 Q. Okay. Are you trained to kick people
16 when you have your gun drawn?

17 A. Yes.

18 Q. Okay. And what was the purpose of
19 utilizing the kick?

20 A. In this incident?

21 Q. Yes.

22 A. So -- excuse me. It wasn't -- at that
23 point in time he was not complying with my verbal
24 commands. He wasn't complying with the -- having
25 a firearm pointed at him. He wasn't complying

1 with me in uniform and my -- my presence. He
2 wasn't complying with the -- you know, the hand
3 gestures of, you know, pointing, telling him to
4 get on the ground.

5 So I -- my next level available to me
6 in the force continuum was strikes and kicks. I
7 didn't feel comfortable going hands-on with him,
8 putting my gun away and trying to grab him based
9 on full-faced helmet, protective riding gear, and
10 he's a larger -- he's a large man.

11 My next step would have been pepper
12 spray. It would have been ineffective. He had a
13 full-face helmet on.

14 My next step would have been a Taser
15 if I had one. I didn't have a Taser at that time.
16 I wasn't issued one.

17 So the next step in available steps to
18 me would be strikes or kicks. I wasn't going to
19 punch him. That would mean getting too close
20 where he could grab me and, you know, potentially
21 harm me.

22 So the next step, in my opinion, at
23 that time available to me was a front push-kick to
24 snap him into listening and following my commands.

25 Q. And were you aiming for his

1 sternum/chest area?

2 A. I was aiming for his midsection.

3 Q. Okay. And was that what you have been
4 trained to do with regard to that strike?

5 A. Yes.

6 Q. Okay. How many seconds do you think
7 you were telling Mr. Wilkens to get on the ground
8 before he began to comply?

9 A. Approximately six. Five, six seconds.

10 Q. And did you think that that was an
11 unreasonable delay?

12 A. Not from my experience.

13 Q. Okay. Just to repeat my question. Do
14 you think that six seconds was too long for him to
15 be complying with your request?

16 A. I did, yes.

17 Q. And did you take into consideration
18 that you had just knocked him to the ground from a
19 rear collision, that may have confused him?

20 A. I really didn't take that into
21 consideration. He jumped up. He's standing
22 there. I'm yelling verbal commands and he
23 wouldn't get down. So I really didn't take the
24 fact that he got knocked off his bike into
25 account.

1 recall?

2 A. I don't recall who showed up first.

3 Q. Okay. There was the Lane County
4 sheriff officers, Holiman and Ware. Correct?

5 A. Correct.

6 Q. And then I think you mentioned there
7 was an OSP Fish & Wildlife person.

8 A. Trooper Ed Imholt.

9 Q. Imholt. And then I think you
10 mentioned there was one other OSP.

11 A. Senior Trooper Gale Kotchell.

12 Q. Okay. And you don't recall in what
13 order they arrived?

14 A. I don't.

15 Q. Okay. Do you -- and I believe your
16 testimony was that you had radioed for backup or
17 for assistance at some point prior to the
18 collision. Is that right? Or were they
19 responding base --

20 A. They were responding to the pursuit.
21 You don't have to ask for backup. Based on the
22 radio traffic -- when I'm on the radio saying I'm
23 in pursuit of a motorcycle. We're here, we're
24 there, we're at these speeds. Everybody's coming
25 to try to help.

1 Q. Okay. So it wasn't in response to
2 your use of the radio after Mr. Wilkens is on the
3 ground? They're not responding -- you mentioned
4 that you go back to the vehicle and you're, you
5 know, saying code 4 and all of that.

6 A. Right.

7 Q. They're not responding in response to
8 that radio traffic. They were responding while
9 you were in pursuit?

10 A. That's correct.

11 Q. Okay. Do you recall which of those
12 officers you spoke to first about what took place?

13 A. I don't. I do know I gave a statement
14 to Deputy Ware, but I don't know if I talked to
15 Deputy Holiman prior to that or not.

16 Q. Okay. Why did you have the Lane
17 County sheriff officers issue the citations to
18 Mr. Wilkens? Why didn't you just issue them?

19 A. I asked them to take over the full --
20 since there was a crash, I asked them to take over
21 the investigation from that point forward.

22 Q. And is there a policy or a training
23 protocol?

24 A. It's just best practice. If
25 Springfield PD crashes, we -- we investigate them.

1 video is at this point you have both knees in his
2 back and you are removing one of his gloves. Is
3 that correct?

4 A. Yes, ma'am.

5 Q. And at this point are you saying
6 something along the lines of, you saw me or
7 something to that effect?

8 A. Not yet.

9 Q. At this point has he said anything
10 like, "I didn't know you were a cop," or, "I
11 didn't know you were a police officer," or
12 something along those lines?

13 A. I don't recall any verbalization
14 between the two of us at that point in time.

15 Q. Okay. And these jerking motions,
16 what -- what is going on here that we can't see on
17 the camera?

18 A. I'm trying to pull his gloves off and
19 move his sleeves up.

20 Q. Okay.

21 A. That's a glove. I just finally got it
22 off.

23 Q. Okay. Would you agree that your kick
24 landed on or about his collarbone/right shoulder
25 area?

1 A. No.

2 Q. Where do you believe that your kick
3 landed?

4 A. I believe my kick landed in the upper
5 chest, and actually probably scraped the bottom of
6 his helmet near his chin.

7 Q. Did you feel your boot catch his chin?

8 A. No.

9 Q. That's about as close as I've been
10 able to get with the stop. So -- so are you using
11 the ball of your foot or the flat of your foot?

12 A. The flat.

13 Q. Okay.

14 A. It's a push kick.

15 Q. And is your foot turned sideways?

16 A. No, ma'am.

17 Q. It's turned vertically up and your
18 toes are at the top and your heel is at the
19 bottom?

20 A. That's correct. Vertically.

21 Q. Okay. And -- and you don't believe
22 that the impact -- that your foot makes contact
23 with his collarbone?

24 A. I do not. It appears that it's the
25 middle of his chest and at the bottom of his chin.

1 seconds," which basically is a continuation of the
2 prior video.

3 And during this time period, I believe
4 you testified that you are making cell phone calls
5 to dispatch and I think you said your supervisor.

6 A. Just radio --

7 Q. Okay.

8 A. -- right now.

9 Q. Just radio calls?

10 A. I haven't called my supervisor yet.

11 Q. Okay. So right now you're just making
12 radio calls saying code 4?

13 A. Where I'm at. Shutting my siren off.

14 Q. You haven't asked him yet if he's been
15 injured in the collision or anything like that.
16 Correct?

17 A. I don't believe so. Not yet.

18 Q. So do you recall what you're saying to
19 Mr. Wilkens at this time?

20 A. I'm informing him of his -- of his
21 Miranda rights.

22 Q. And what's his response to you reading
23 his Miranda rights?

24 A. Asked him if he understood. And if I
25 recall right, he said, "Yeah."

1 Q. Now, do you recall what -- is there
2 anything else that you're saying, or is this still
3 all the rights?

4 A. I asked him if he's okay. Does he
5 need medics. Stuff like that. Starting my --

6 Q. What else?

7 A. Starting my interrogation on, "Why are
8 you running? Why are you running from me?"

9 I look at the -- he says basically, "I
10 didn't know you were a cop."

11 I was pointing out all my red and blue
12 lights, saying, "How could you not know I'm a
13 cop?"

14 Q. Okay. What was his answer to whether
15 he needed medics or whether he was injured?

16 A. At that time he said he did not need
17 medics. He was just a bit shaken up.

18 Q. Okay. Would you agree that it is a
19 very clear, sunny day?

20 A. Yeah. It was a nice day.

21 Q. And are you -- do you recall whether
22 you are driving into the sun or away from the sun?
23 Do you remember what direction this road is --

24 A. The majority of that road runs
25 northbound, so the sun would be one o'clock,

1 pretty much overhead.

2 Q. Now, at this time does he tell you
3 that he thought you were the Honda that he had
4 passed?

5 A. At some point in time, he does. I
6 don't recall if it's at this point in time or when
7 we continue our conversation while he's sitting on
8 the hood of the car.

9 Q. Okay.

10 A. But that does take place.

11 Q. And he -- do you recall him telling
12 you that he thought that the car was wanting to
13 race him and so he was trying to put some distance
14 between him and that -- and what he thought was
15 that car wanting to race, something to that
16 effect?

17 A. Something to that effect. That he
18 passed a Honda car near the high school, which
19 would be approximately milepost 1, and that they
20 were racing or something to that effect.

21 Q. Okay. Would you agree that your
22 unmarked vehicle is of similar color to that Honda
23 that he passed?

24 A. I've never seen the Honda that he
25 passed. He says it was gray. If it was gray, it

1 fractured that, and some paint transfer.

2 Q. Do you know what part of the
3 motorcycle caused that damage?

4 A. I'm assuming the back tire and the
5 back fender portion that I impacted.

6 Q. And did you see damage done to the
7 motorcycle?

8 A. Yes.

9 Q. And how would you describe that?

10 A. Some scratches on the left side, the
11 side it fell onto. The license plate was torn
12 from the vehicle. That's about it, that I can
13 recall.

14 Q. Okay. And so you are out of the frame
15 right now. Do you recall what you're doing?

16 A. Picking up his motorcycle.

17 Q. Okay. And why are you doing that?

18 A. The right thing to do. It's not good
19 for them to lay on their side like that. And
20 trying to take care of his -- his stuff.

21 Q. Do you recall when you picked it up,
22 was it still running?

23 A. I don't recall.

24 Q. You don't recall. Do you -- would it
25 be important to leave the motorcycle where it was

1 for the crash investigation?

2 A. I guess I weighed the options of
3 taking care of his stuff versus leaving his
4 motorcycle on the side where it can continue to be
5 damaged. I chose to take -- I'd take care of his
6 property.

7 Q. And what was your understanding of the
8 damage that could be perpetuated if it was left on
9 its side?

10 A. Just my understanding it's not good
11 for a -- it's not good for motors like that to
12 continue to run if it is running in a situation
13 like that on its side.

14 Q. Okay. So is it your testimony that
15 the concern regarding continued damage was to the
16 motor because it was running and on its side or is
17 there some kind of damage that you're aware of
18 that would occur if the motor was off and it's
19 just on its side?

20 A. I don't recall if the motor was
21 running. I -- it could have been. I don't recall
22 if it was or wasn't. I'm trying to take care of
23 that man's equipment. Trying to take care of his
24 bike.

25 Q. Okay. So whether the motor was on or

1 not, it was your understanding that damage would
2 be done to the bike by it being on its side?

3 A. It's my understanding it's not good
4 for them.

5 Q. All right. I think that's probably
6 all for the video I need.

7 The fan will turn off automatically in
8 a second.

9 THE REPORTER: Thanks.

10 BY MS. REGAN:

11 Q. From the time that Mr. Wilkens is
12 knocked off the motorcycle to the time that you
13 place handcuffs on him, you can see his hands at
14 all times. Is that correct? He makes his hands
15 visible to you at all times?

16 A. Well, technically, no. He's laying --
17 he's on his belly. His hands are here. Until
18 they're behind his back is when I can see them
19 completely at all times.

20 Q. Okay. So Lane County Sheriff's
21 Office, Deputy Ware, issues the citations to
22 Mr. Wilkens, but you would still be the witness if
23 the case had gone to trial. I don't know if
24 you're technically called the complainant in that
25 situation. Do you know?

1 mention that we provided her a report to review
2 during the course of this incident.

3 Q. Okay. Do you remember was this in
4 close time to the incident or recently?

5 A. Way close time. So whenever --
6 whenever the review was completed.

7 Q. Uh-huh.

8 A. It would have been shortly thereafter.

9 Q. Okay. At the time that Mr. Wilkens
10 passed the Camaro that you were driving, do you
11 recall whether or not that was just north of
12 Erickson Road?

13 A. Just north? I would have to look at
14 the video. It was either just north of it, just
15 south of it, right in that area.

16 Q. Okay.

17 A. I don't recall exactly where on
18 Coburg -- correction, Crow Road that he passed me.

19 Q. Okay.

20 A. Without reviewing some reports.

21 Q. Were you aware of the reputation that
22 Crow Road has for motorcycle riding or racing,
23 anything along those lines?

24 A. No.

25 Q. Okay.

1 that in the bright lights -- or the bright
2 sunshine -- you know, look at these photos -- if
3 someone has a single rearview mirror, and they're
4 driving a motorcycle, so they're very focused on
5 the road in front of them, isn't it possible that
6 these lights on an unmarked Camaro, which is a
7 pretty unusual unmarked police car, isn't it
8 possible that at -- at least it's a reasonable
9 assumption, that a person would not see those
10 lights? I mean, they seem pretty bleached out
11 even in this photo.

12 A. If I was trying to stop him for
13 80 miles an hour, and he continued at 75, 80 miles
14 an hour while I was behind him, I could understand
15 that. But when I got my red and blue lights on
16 and the siren going and we drastically increase
17 our speed, my opinion, based on those
18 circumstances, and we're passing cars in
19 no-passing zones, that's an attempt to elude.

20 So I think, my opinion, he knew I was
21 a police officer and he knew I was trying to catch
22 him.

23 Q. Then why would he then put on his
24 blinker and voluntarily pull over and stop?

25 A. I have no idea. Maybe he decided it

1 wasn't worth the risk. We're getting into heavy
2 traffic and it wasn't worth crashing into somebody
3 and hurting himself or hurting somebody else.
4 It's not the first person that's done that.

5 Q. But didn't you even say yourself that
6 if he had wanted to elude, he would have been able
7 to?

8 A. I don't remember my exact wording, but
9 based on the 1,000 cc sports bike he was riding
10 and the demonstrated ability to ride, he
11 potentially could have.

12 Q. Very likely could have?

13 A. I don't know. Potentially. Very
14 likely. Possibly.

15 MS. REGAN: Let me just confer with
16 my client for a second and we might be done.

17 (Recess: 3:57 p.m. to 4:01 p.m.)

18 MS. REGAN: All right. We're back
19 on the record at about a minute before four p.m.
20 And plaintiffs have concluded their questioning of
21 Captain Edwards, and Captain Edwards would like to
22 clarify an answer he gave to one of my earlier
23 questions.

24 THE WITNESS: Yes, ma'am. So you
25 asked why he would -- if he was actively eluding,

1 then why would he pull over to the side, use his
2 turn signal and actually stop. I can tell you
3 from my experience that's not uncommon for people
4 to stop in an attempt to gain time and distance.

5 They'll stop. The trooper will get
6 out of their car. Walk up. And then they'll take
7 off again.

8 They'll also -- very commonly
9 they'll stop and then immediately flee on foot.
10 They'll stop in a neighborhood and flee on foot
11 into a neighborhood.

12 So you asked why would he do that.
13 I don't know what his intentions are. I don't
14 know if he was turning his turn signal on to make
15 it look like he's pulling over so then I'd let my
16 guard down to approach him, or he takes off again,
17 or, you know, if he's going to flee on foot or if
18 he's going to turn around and attack me, if that
19 makes sense.

20 BY MS. REGAN:

21 Q. Well, I guess the reason it doesn't
22 make sense is -- is your training and experience,
23 has that taught you to always think the worst of
24 every citizen that you're encountering?

25 A. While I'm in high-speed pursuit, yes.

1 Q. Okay. So you believe that anyone that
2 is speeding at a high rate of speed is a dangerous
3 person?

4 A. You're not getting the point.
5 High-speed pursuit. If I get a speeder at
6 100 miles an hour, and I catch up to him and turn
7 my lights on, and I pull him over immediately,
8 yeah, I'm going to be obviously cautious with him.
9 But I'm not automatically thinking that they're,
10 you know, driving a stolen car or high on meth.

11 Q. Uh-huh.

12 A. Or doing something crazy.

13 When I'm chasing somebody in a pursuit
14 over the course of multiple miles at 110,
15 115 miles an hour, that, to me -- in my
16 experience -- the only people that do that in my
17 experience are people that have committed some
18 type of crime and they're fleeing me to get away
19 to avoid incarceration.

20 Q. So did this incident change your
21 experience?

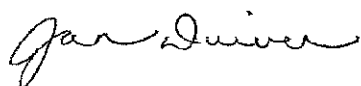
22 A. I don't know that. I -- he wasn't
23 wanted. He didn't appear to be high. And the
24 bike wasn't stolen. But I don't know his
25 intentions for running from me.

1 State of Oregon)
2 County of Lane) ss.
3

4 I, Jan R. Duiven, CSR, FCRR, CCP, a
5 Certified Shorthand Reporter for the State of
6 Oregon, certify that the witness was sworn and the
7 transcript is a true record of the testimony given
8 by the witness; that at said time and place I
9 reported all testimony and other oral proceedings
10 in the matter; that the foregoing transcript
11 consisting of 232 pages, contains a full, true and
12 correct transcript of the proceedings reported by
13 me to the best of my ability on said date.

14 If any of the parties or the witness
15 requested review of the transcript at the time of
16 the proceedings, correction pages have been
17 inserted.

18 IN WITNESS WHEREOF, I have set my
19 hand and CSR seal this 13th day of May, 2015, in
20 the City of Eugene, County of Lane, State of
21 Oregon.

22 

23 Jan R. Duiven, CSR, FCRR, CCP

24 CSR No. 96-0327

25 Expiration Date: September 30, 2017

Justin Wilkens

Wilkens v Edwards and State of Oregon

April 15th, 2015

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Justin Wilkens

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

EUGENE DIVISION

JUSTIN WILKENS,)	
)	
Plaintiff,)	
)	
v.)	No. 14-CV-00907
)	
ROBERT EDWARDS, in his)	
individual capacity;)	
THE STATE OF OREGON;)	
)	
Defendants.)	

DEPOSITION OF JUSTIN WILKENS

April 15, 2015

Wednesday

9:08 A.M.

THE DEPOSITION OF JUSTIN WILKENS, was
taken at the Department of Justice,
975 Oak Street, Suite 200, Eugene, Oregon, before
Jan R. Duiven, CSR, FCRR, CCP, Certified Shorthand
Reporter in and for the State of Oregon.

Justin Wilkens

2

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Also Present:

MS. HAYLEY PERCY

MS. LOREE FOGLEMAN

Reported by:

JAN R. DUIVEN, CSR, FCRR, CCP

Justin Wilkens

155

1 was no cars coming. The second car -- the third
2 car I passed, I thought that car had car problems
3 or they wanted to follow me. They were going well
4 below the posted speed limit.

5 And they were waving me forward, like
6 anyone would do if their car is stalled or
7 coasting and they don't have control of their
8 vehicle, telling me to go past them, just like
9 anybody else on that road does. If they're
10 driving a tractor. If they're --

11 MS. VAN METER: Can you read my
12 question back, please?

13 (The question was read back
14 as follows:)

15 "QUESTION: The vehicles that you
16 passed on August 3rd, 2012, on Crow Road,
17 was it all in places where it was legal to
18 pass?"

19 BY MS. VAN METER:

20 Q. Yes or no, Mr. Wilkens.

21 A. All the vehicles? I passed one car on
22 a yellow line. I guess --

23 Q. On a double yellow line. Correct?

24 A. That -- I believe it was a double
25 yellow line, but I could see far ahead before

Justin Wilkens

156

1 entering that first corner when I passed the
2 Camaro.

3 As I said, I've driven that road many,
4 many, many, many, many times. And it was a
5 beautiful day. I had clear visibility.

6 MS. VAN METER: Counsel, I'm trying
7 to finish up. It's getting --

8 MS. REGAN: Well, yeah. I mean,
9 we've been at it for hours and he, you know, is on
10 medication for exactly this reason. So it's not
11 surprising to me that he's starting to fade.

12 MS. VAN METER: Okay.

13 MS. REGAN: Do you want to take
14 another break?

15 THE WITNESS: No. Just -- like I
16 want to move through this. I'm just trying to
17 like --

18 MS. VAN METER: If Mr. Wilkens is
19 starting to fade, I'm then concerned that if he's
20 supposed to be on medication, and he's not taking
21 the medication, and he's starting to fade, that
22 I'm going to have a problem with this being either
23 completed or being a valid deposition. So do we
24 need to take a break and depose him another day?

25 THE WITNESS: I don't need a break.

Justin Wilkens

161

1 A. They have Velcro straps on them.

2 Q. And were those Velcro straps tightened
3 down?

4 A. Of course.

5 Q. Did you have a full helmet on?

6 A. Yes.

7 Q. And a full-face shield?

8 A. Yep.

9 Q. And the face shield is dark tinted?

10 A. I can't remember. There's -- you
11 can -- they're interchangeable.

12 Q. Have you seen the video of the pursuit
13 on August 3rd, 2012?

14 A. Yes.

15 Q. How many times?

16 A. Probably at least five to ten.

17 Q. When was the last time you saw it?

18 A. Last week.

19 Q. Do you agree when you have your
20 jacket, your gloves, your helmet, and the
21 full-face shield down, that a person cannot tell
22 who you are or what you look like or what you're
23 doing?

24 A. You mean somebody else in a vehicle?

25 Q. Yeah.

Justin Wilkens

164

1 dimensions off the top of my head, but --

2 Q. What's your best estimate of the
3 dimensions?

4 A. Hmm. I'd guess 7, 8 inches wide by
5 4 to 5 inches tall. (Indicating.)

6 Q. That's a different size than on cars?

7 A. Yeah.

8 Q. It's smaller?

9 A. Yeah. The motorcycle's smaller.

10 Q. At the time Captain Edwards pulled you
11 over, was there any way for him to know whether
12 you were a convicted felon or a bank robber?

13 A. No.

14 Q. Would you agree that if a police
15 officer is pulling somebody over, and they don't
16 know if the person is armed or dangerous or why
17 they may have been driving and passing a double
18 yellow line, and not pulling over for a police
19 officer, that a police officer should be cautious
20 in that circumstance?

21 A. I think police officers always have to
22 be cautious. But they also have to have control
23 of their vehicle too.

24 Q. Do you think Captain Edwards did wrong
25 on August 3rd, 2012?

Justin Wilkens

184

1 Q. Did you -- did you have a valid
2 license at the time?

3 A. Yes.

4 Q. But no insurance?

5 A. No.

6 Q. You agree you didn't have any
7 insurance?

8 A. I did not have insurance.

9 Q. Has any doctor told you you need
10 future treatment for your shoulder?

11 A. I inquired with Dr. Boespflug about
12 it, and he set up an appointment for me to go to
13 Slocum, but I couldn't afford to go. I asked him
14 if the potential of having prolonged problems down
15 the road was a potential and he couldn't answer
16 that.

17 Q. He didn't know one way or the other?

18 A. He wasn't a specialist.

19 Q. What vehicle are you driving
20 currently?

21 A. It's an old Chevy pickup.

22 Q. What year?

23 A. 2001.

24 Q. How long have you had it?

25 A. Probably since 2003.

Justin Wilkens

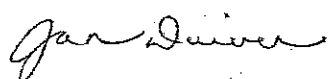
196

1 State of Oregon)
 2 County of Lane) ss.
 3

4 I, Jan R. Duiven, CSR, FCRR, CCP, a
 5 Certified Shorthand Reporter for the State of
 6 Oregon, certify that the witness was sworn and the
 7 transcript is a true record of the testimony given
 8 by the witness; that at said time and place I
 9 reported all testimony and other oral proceedings
 10 in the matter; that the foregoing transcript
 11 consisting of 195 pages, contains a full, true and
 12 correct transcript of the proceedings reported by
 13 me to the best of my ability on said date.

14 If any of the parties or the witness
 15 requested review of the transcript at the time of
 16 the proceedings, correction pages have been
 17 inserted.

18 IN WITNESS WHEREOF, I have set my
 19 hand and CSR seal this 20th day of April, 2015, in
 20 the City of Eugene, County of Lane, State of
 21 Oregon.

22 

23 Jan R. Duiven, CSR, FCRR, CCP

24 CSR No. 96-0327

25 Expiration Date: September 30, 2017

OREGON UNIFORM CITATION AND COMPLAINT

Use for All Violations or Crimes Where Separate Complaint Will Not be Filed/ORS 153.045 or 133.069

☒ CRIME(S) ☐ OR ☐ VIOLATION(S) Type: ☐ (see A below) ☐ (Not Both) (see B below) ☐ TRAFFIC
STATE OF OREGON
CITY/OTHER PUBLIC BODY: EUGENECOUNTY OF: LANE COUNTYCase No.: 12-5393Court: LANE CO CIRCUIT COURT**DEFENDANT** The undersigned certifies and says that the following person:ID Type: ID No: 9105112 State: OR Ph: _____Name: Last: WILKENSFirst: JUSTINM: MICHAELAddress: 25429 WOLF CREEK RDCity: EUGENE State: OR Zip: 97405 Passenger: ☐Sex: M Race: W DOB: 03/14/1974 Hgt: 6'1" Wgt: 200 Hair: BROEyes: BRO Lic. Exp.: 2014 Juv.: ☐ Lic. Class: C Emp. to Drive: ☐**TIME/PLACE**

At the following time and place in the above-mentioned state and county:

On or About Date/Time: 08/03/2012 01:57 PM

At or Near _____ City _____

CROW RD & MP 4NB: ☒ SB: ☐ EB: ☐ WB: ☐Highway: ☐ Premise Open to Public: ☐ Other: ☐**VEHICLE** Involving the following:Year: 2006 Make: APRI Model: 1000Color: ONG Type: MCRegis/Vin/ID#: M654339 State: ORAccident: ☐ Prop. Damage: ☐ Injury: ☐ Endanger: ☐ Other: ☐Com'l Veh: ☐ Haz Mat: ☐ Driver Not Reg. Owner: ☐Other: _____ Com'l Pass: ☐**OFFENSE(S)** Did then and there commit the following offense(s):HWY Work Zone: ☐ School Zone: ☐ VBR: ☐ Safety Corridor: ☐Radar: ☐ Pace: ☐ Laser: ☐ Other: ☐Alleged Speed: _____ Designated Speed: _____ Posted Limit: ☐Offense #: 811.540ATTEMPT TO ELUDE/FLYING (VEHICLE)Warning: ☐Presumptive Fine1: MUST APPEARIntentional: ☐ Knowing: ☐ Reckless: ☐Criminal Negligence: ☐ No Culpable Mental State: ☐

Offense #:

Warning: ☐

Presumptive Fine2:

Intentional: ☐ Knowing: ☐ Reckless: ☐Criminal Negligence: ☐ No Culpable Mental State: ☐

Offense #:

Warning: ☐

Presumptive Fine3:

Intentional: ☐ Knowing: ☐ Reckless: ☐Criminal Negligence: ☐ No Culpable Mental State: ☐**OTHER**

Expt.:

SIGNATURE

I certify under ORS 153.045 and 153.060 and under other applicable law and under penalties for false swearing, do swear/affirm that I have sufficient grounds to and do believe that the above-mentioned defendant/person committed the above offense(s) and I have served the defendant/person with this complaint.

Signature of Officer: Tim WareOfficer name1: TIM WAREOfficer ID: 32127

Officer name2: _____

Officer ID: _____

Agency Name: LANE COUNTY SHERIFFS OFFICEIssue Date: 08/03/2012**YOUR COURT APPEARANCE DATE, TIME AND LOCATION ARE**08/28/2012 08:30 AMLocation: LANE CO CIRCUIT COURT125 E 8TH AVEEUGENE544 593 4920OR 97401**DMV Use Only**RECORD AND: ☐ CIRCUIT COURT REGISTER ☐ JUSTICE COURT DOCKET
☐ MUNICIPAL COURT DOCKETHANDLED BY: ☐ VIOLATIONS BUREAU ☐ COURTBASED ON: ☐ WRITTEN SUBMISSION ☐ APPEARANCE

DATE	EVENT/NOTES	INITIAL
	COMPLAINT FILED	
	WRITTEN RESPONSE RECEIVED	
	ARRAIGNED <input type="checkbox"/> MISD. <input type="checkbox"/> 161.566 OR <input type="checkbox"/> VIOL. <input type="checkbox"/> 161.566 (REDUCTION)	
	SECURITY RELEASE AT: \$ _____ RECEIPT NO. _____	
	COURT/JURY TRIAL (<input type="checkbox"/> WAIVED)	
	CRIMINAL RIGHTS GIVEN	
	ATTORNEY: _____ OSB#: _____ (<input type="checkbox"/> WAIVED)	
	WARRANT ORDERED ISSUED: _____	
	DIVERSION AGREEMENT	
	CONTINUED TO REASON: _____	
	<input type="checkbox"/> ORS 135.355 CONDITIONAL PLEA	

THE ATTACHED ADDITIONS TO THIS RECORD/REGISTER ARE INCORPORATED BY REFERENCE, SEE PAGE(S): ☐ 1 (BY _____); ☐ 2 (BY _____);**JUDGMENT OF THE COURT** (SUBMIT ABSTRACT COPY UNDER ORS 153.11)

OFF. RESPONSE/ CHANGE FINDING DETERMINATION OFFENSE TYPE CLASS

PLEA PLEA SITE

1 G NG NC FTA G NG C A DISM V M A B C D QTH

2 G NG NC FTA G NG C A DISM V M A B C D QTH

3 G NG NC FTA G NG C A DISM V M A B C D QTH

DISPOSITION: ☐ 137.533 DEFERRED SENTENCE ☐ SENT IMP. SUS.☐ DR. PRIV. SUSP. (TIME) CONV. SPD.

JAIL: _____

PROBATION/OTHER: _____

THE ATTACHED ADDITIONS TO THIS JUDGMENT ARE INCORPORATED BY REFERENCE, SEE PAGE(S): ☐ 1 (BY _____); ☐ 2 (BY _____); ☐ 3 (BY _____);

MONEY JUDGMENT OFFENSE 1 OFFENSE 2 OFFENSE 3

MONEY OBLIGATION IMPOSE SUSPEND IMPOSE SUSPEND IMPOSE SUSPEND

FINE

COSTS

RESTITUTION

TOTAL

TOTAL AMOUNT TO PAY THAT IS NOT SUSPENDED (FROM OFFENSES 1, 2 AND 3) \$ _____

TERMS OF PAYMENT: _____

☐ ALL MONEYS, INCLUDING SUSPENDED MONEYS, BECOME DUE IMMEDIATELY UNDER ORS 153.090(4) IF NONSUSPENDED MONEYS NOT PAID IN ACCORDANCE WITH TERMS OF PAYMENT.THE ATTACHED ADDITIONS TO THIS MONEY JUDGMENT ARE INCORPORATED BY REFERENCE, SEE PAGE(S): ☐ 1 (BY _____); ☐ 2 (BY _____);JUDGMENT CREDITOR: ☐ STATE OF OREGON ☐ OTHER _____JUDGMENT DEBTOR: ☐ DEFENDANT ☐ OTHER _____DATE: _____ SIGNATURE OF: ☐ JUDGE (☐ VIOLATIONS CLERK, WHERE ALLOWED)K0000018
WIL - OSP - 0020

Citation #: DD1200093

Traffic Type: TRAFFIC/STANDARD

Date: 08/03/2012

Time: 01:57 PM

Location:

CROW RD & MP 4

EUGENE

Latitude:

Longitude:

Tactical Zone:

Beat: 531

NB: ☒ SB: ☐ EB: ☐ WB: ☐

Highway: ☐ Premise Open to Public: ☐ Other: ☐

Radar: ☐ Serial #:

Laser: ☐ Serial #:

Pace: ☐ Tested: ☐ Other: ☐

Defendant Last Name: WILKENS

Defendant First Name: JUSTIN

Vehicle Plate #: M854339

VIN: ZD4RRTT097S000026

Traffic: N/A

At Intersection: N/A

Visibility: N/A

Road Surface: N/A

Area: N/A

Fish and Wildlife Unit/Stream Code:

Juvenile Information

Parent Last Name:

Parent First Name:

Parent Address:

Parent Phone #:

Template:

Officer Notes:

000019

WIL - OSP - 0021

OREGON UNIFORM CITATION AND COMPLAINT

Use for All Violations or Crimes Where Separate Complaint Will Not be Filed/ORS 153.045 or 133.069

☒ CRIME(S) OR ☐ VIOLATION(S) Type: **TRAFFIC**
 (see A below) (Not Both) (see B below)

 STATE OF OREGON
 CITY/OTHER PUBLIC BODY: **EUGENE**
 COUNTY OF: **LANE COUNTY**

Case No.: 12-5393

Court: **LANE CO CIRCUIT COURT****DEFENDANT** The undersigned certifies and says that the following person:ID Type: ID No: **9105112** State: **OR** Ph: _____Name: Last: **WILKENS**First: **JUSTIN**MI: **MICHAEL**Address: **25429 WOLF CREEK RD**City: **EUGENE** State: **OR** Zip: **97405** Passenger: ☐Sex: **M** Race: **W** DOB: **03/14/1974** Hgt: **6'1"** Wgt: **200** Hair: **BRO**Eyes: **BRO** Lic. Exp.: **2014** Juv.: ☐ Lic. Class: **c** Emp. to Drive: ☐**TIME/PLACE**

At the following time and place in the above-mentioned state and county:

On or About Date/Time: **08/03/2012** **02:00 PM**

At or Near _____ City _____

CROW RD & MP 4**EUGENE**NB: ☒ SB: ☐ EB: ☐ WB: ☐Highway: ☐ Premise Open to Public: ☐ Other: ☐**VEHICLE** Involving the following:Year: **2006** Make: **APRI** Model: **1000**Color: **ONG** Type: **MC**Regis/Vin/ID#: **M654339** State: **OR**Accident: ☐ Prop. Damage: ☐ Injury: ☐ Endanger Other: ☐Com'l Veh: ☐ Haz Mat: ☐ Driver Not Reg. Owner: ☐Other: _____ Com'l Pass: ☐**OFFENSE(S)** Did then and there commit the following offense(s):HWY Work Zone: ☐ School Zone: ☐ VBR: ☐ Safety Corridor: ☐Radar: ☐ Pace: ☐ Laser: ☐ Other: ☐Alleged Speed: _____ Designated Speed: _____ Posted Limit: ☐Offense #: **811.140****RECKLESS DRIVING**Warning: ☐Presumptive Fine1: **MUST APPEAR**Intentional: ☐ Knowing: ☐ Reckless: ☐Criminal Negligence: ☐ No Culpable Mental State: ☐

Offense #:

Warning: ☐

Presumptive Fine2:

Intentional: ☐ Knowing: ☐ Reckless: ☐Criminal Negligence: ☐ No Culpable Mental State: ☐

Offense #:

Warning: ☐

Presumptive Fine3:

Intentional: ☐ Knowing: ☐ Reckless: ☐Criminal Negligence: ☐ No Culpable Mental State: ☐**OTHER**

Expi.:

SIGNATURE

I certify under ORS 153.045 and 153.990 and under other applicable law and under penalties for false swearing, do swear/affirm that I have sufficient grounds to and do believe that the above-mentioned defendant/person committed the above offense(s) and I have served the defendant/person with this complaint.

Signature of Officer: _____

Officer name1: **TIM WARE**Officer ID: **32127**

Officer name2: _____

Officer ID: _____

Agency Name: **LANE COUNTY SHERIFFS OFFICE**Issue Date: **08/03/2012****YOUR COURT APPEARANCE DATE, TIME AND LOCATION ARE****08/28/2012** **08:30 AM**Location: **LANE CO CIRCUIT COURT****125 E 8TH AVE****EUGENE****544 582-4020****OR 97401**

DMV Use Only

RECORD AND: ☐ CIRCUIT COURT REGISTER ☐ JUSTICE COURT DOCKET
☐ MUNICIPAL COURT DOCKETHANDLED BY: ☐ VIOLATIONS BUREAU ☐ COURTBASED ON: ☐ WRITTEN SUBMISSION ☐ APPEARANCE

DATE _____ EVENT/NOTES _____ INITIAL _____

COMPLAINT FILED

WRITTEN RESPONSE RECEIVED

ARRAIGNED ☐ MISD. ☐ 161.566 OR☐ VIOL. ☐ 161.566 (REDUCTION)

SECURITY RELEASE AT: \$ _____ RECEIPT NO. _____

COURT/JURY TRIAL (☐ WAIVED)

CRIMINAL RIGHTS GIVEN

ATTORNEY: _____ OSB#: _____ (☐ WAIVED)

WARRANT ORDERED ISSUED: _____

DIVERSION AGREEMENT

CONTINUED TO REASON: _____

☐ ORS 135.356 CONDITIONAL PLEATHE ATTACHED ADDITIONS TO THIS RECORD/REGISTER ARE INCORPORATED BY REFERENCE, SEE PAGE(S): ☐ 1 (BY _____); ☐ 2 (BY _____);

JUDGMENT OF THE COURT (SUBMIT ABSTRACT COPY UNDER ORS 153.11)

OFF RESPONSE/ CHANGE FINDING DETERMINATION OFFENSE TYPE CLASS

PLEA PLEA SITE

1 G NG NC FTA G NG C A DISM V M A B C D OTH

2 G NG NC FTA G NG C A DISM V M A B C D OTH

3 G NG NC FTA G NG C A DISM V M A B C D OTH

DISPOSITION: ☐ 137.533 DEFERRED SENTENCE ☐ SENT IMP. SUS.☐ DR. PRIV. SUSP. (TIME) CONV. SPD.

JAIL: _____

PROBATION/OTHER: _____

THE ATTACHED ADDITIONS TO THIS JUDGMENT ARE INCORPORATED BY REFERENCE, SEE PAGE(S): ☐ 1 (BY _____); ☐ 2 (BY _____); ☐ 3 (BY _____);MONEY JUDGMENT OFFENSE 1 OFFENSE 2 OFFENSE 3
MONEY OBLIGATION IMPOSE SUSPEND IMPOSE SUSPEND IMPOSE SUSPEND

FINE

COSTS

RESTITUTION

TOTAL

TOTAL AMOUNT TO PAY THAT IS NOT SUSPENDED (FROM OFFENSES 1, 2 AND 3) \$ _____

TERMS OF PAYMENT: _____

☐ ALL MONEYS, INCLUDING SUSPENDED MONEYS, BECOME DUE IMMEDIATELY UNDER ORS 153.090(4) IF NONSUSPENDED MONEYS NOT PAID IN ACCORDANCE WITH TERMS OF PAYMENT.THE ATTACHED ADDITIONS TO THIS MONEY JUDGMENT ARE INCORPORATED BY REFERENCE, SEE PAGE(S): ☐ 1 (BY _____); ☐ 2 (BY _____);JUDGMENT CREDITOR: ☐ STATE OF OREGON ☐ OTHER _____JUDGMENT DEBTOR: ☐ DEFENDANT ☐ OTHER _____

DATE: _____

SIGNATURE OF: ☐ JUDGE (☐ VIOLATIONS CLERK, WHERE ALLOWED)

AND 12-12-1000020

WIL - OSP - 0022

Citation #: DD1200094

Traffic Type: TRAFFIC/STANDARD

Date: 08/03/2012

Time: 02:00 PM

Location:

CROW RD & MP 4

EUGENE

Latitude:

Longitude:

Tactical Zone:

Beat: 531

NB: ☒ SB: ☐ EB: ☐ WB: ☐Highway: ☐ Premise Open to Public: ☐ Other: ☐Radar: ☐ Serial #:Laser: ☐ Serial #:Pace: ☐ Tested: ☐ Other: ☐

Defendant Last Name: WILKENS

Defendant First Name: JUSTIN

Vehicle Plate #: M654339

VIN: ZD4RRT097S000026

Traffic: N/A

At Intersection: N/A

Visibility: N/A

Road Surface: N/A

Area: N/A

Fish and Wildlife Unit/Stream Code:

Juvenile Information

Parent Last Name:

Parent First Name:

Parent Address:

Parent Phone #:

Template:

Officer Notes:

12-5393

000021

WIL - OSP - 0023

OREGON UNIFORM CITATION AND COMPLAINT

Use for All Violations or Crimes Where Separate Complaint Will Not be Filed/ORS 153.045 or 153.069

☒ CRIME(S) OR ☐ VIOLATION(S) Type:
 (see A below) (Not Both) (see B below) **TRAFFIC**

STATE OF OREGON

CITY/OTHER PUBLIC BODY: **EUGENE**COUNTY OF: **LANE COUNTY**

Case No.: 12-5393

Court: **LANE CO CIRCUIT COURT****DEFENDANT** The undersigned certifies and says that the following person:ID Type: ID No: **9105112** State: **OR** Ph.:Name: Last: **WILKENS**First: **JUSTIN**MI: **MICHAEL**Address: **25429 WOLF CREEK RD**City: **EUGENE** State: **OR** Zip: **97405** Passenger: ☐Sex: **M** Race: **W** DOB: **03/14/1974** Hgt: **6'1"** Wgt: **200** Hair: **BRO**Eyes: **BRO** Lic. Exp.: **2014** Juv.: ☐ Lic. Class: **C** Emp. to Drive: ☐**TIME/PLACE**

At the following time and place in the above-mentioned state and county:

On or About Date/Time: **08/03/2012** **02:02 PM**At or Near City: **EUGENE****CROW RD & MP 4**NB: ☒ SB: ☐ EB: ☐ WB: ☐Highway: ☐ Premise Open to Public: ☐ Other: ☐**VEHICLE** Involving the following:Year: **2006** Make: **APRI** Model: **1000**Color: **ONG** Type: **MC**Regis/Vin/ID#: **M654339** State: **OR**Accident: ☐ Prop. Damage: ☐ Injury: ☐ Endanger Other: ☐Com'l Veh: ☐ Haz Mat: ☐ Driver Not Reg. Owner: ☐Other: ☐ Com'l Pass: ☐**OFFENSE(S)** Did then and there commit the following offense(s):HWY Work Zone: ☐ School Zone: ☐ VBR: ☐ Safety Corridor: ☐Radar: ☐ Pace: ☐ Laser: ☐ Other: ☐Alleged Speed: Designated Speed: Posted Limit: ☐Offense #: **163.195****RECKLESS ENDANGERING PERSON**Warning: ☐Presumptive Fine1: **MUST APPEAR**Intentional: ☐ Knowing: ☐ Reckless: ☐Criminal Negligence: ☐ No Culpable Mental State: ☐

Offense #:

Warning: ☐

Presumptive Fine2:

Intentional: ☐ Knowing: ☐ Reckless: ☐Criminal Negligence: ☐ No Culpable Mental State: ☐

Offense #:

Warning: ☐

Presumptive Fine3:

Intentional: ☐ Knowing: ☐ Reckless: ☐Criminal Negligence: ☐ No Culpable Mental State: ☐

Offense #:

OTHER

Expi.:

SIGNATURE

I certify under ORS 153.045 and 153.990 and under other applicable law and under penalties for false swearing, do swear/affirm that I have sufficient grounds to and do believe that the above-mentioned defendant/person committed the above offense(s) and I have served the defendant/person with this complaint.

Signature of Officer: *Tim Ware*Officer name1: **TIM WARE**Officer ID: **32127**

Officer name2:

Officer ID:

Agency Name: **LANE COUNTY SHERIFFS OFFICE**Issue Date: **08/03/2012****YOUR COURT APPEARANCE DATE, TIME AND LOCATION ARE****08/28/2012****08:30 AM**Location: **LANE CO CIRCUIT COURT****125 E 8TH AVE****EUGENE****OR 97401****541-382-4820**

DMV Use Only

DD120095

RECORD AND: ☐ CIRCUIT COURT REGISTER ☐ JUSTICE COURT DOCKET
☐ MUNICIPAL COURT DOCKETHANDLED BY: ☐ VIOLATIONS BUREAU ☐ COURT
BASED ON: ☐ WRITTEN SUBMISSION ☐ APPEARANCE

DATE EVENT/NOTES INITIAL

COMPLAINT FILED

WRITTEN RESPONSE RECEIVED

ARRAIGNED ☐ MISD. ☐ 161.566 OR
☐ VIOL. ☐ 161.566 (REDUCTION)

SECURITY RELEASE AT: \$ RECEIPT NO.

COURT/JURY TRIAL (☐ WAIVED)

CRIMINAL RIGHTS GIVEN

ATTORNEY: OSB#: (☐ WAIVED)

WARRANT ORDERED ISSUED:

DIVERSION AGREEMENT

CONTINUED TO REASON:

☐ ORS 135.355 CONDITIONAL PLEATHE ATTACHED ADDITIONS TO THIS RECORD/REGISTER ARE INCORPORATED BY REFERENCE, SEE PAGE(S): ☐ 1 (BY _____); ☐ 2 (BY _____);

JUDGMENT OF THE COURT (SUBMIT ABSTRACT COPY UNDER ORS 153.11)

OFF RESPONSE/ CHANGE FINDING DETERMINATION OFFENSE TYPE CLASS

PLEA PLEA PLEA SITE

1 G NG NC FTA G NG C A DISM VM A B C D OTH

2 G NG NC FTA G NG C A DISM VM A B C D OTH

3 G NG NC FTA G NG C A DISM VM A B C D OTH

DISPOSITION: ☐ 137.533 DEFERRED SENTENCE ☐ SENT IMP. SUS.☐ DR. PRIV. SUSP. (TIME) CONV. SPD.

JAIL:

PROBATION/OTHER:

THE ATTACHED ADDITIONS TO THIS JUDGMENT ARE INCORPORATED BY

REFERENCE, SEE PAGE(S): ☐ 1 (BY _____); ☐ 2 (BY _____); ☐ 3 (BY _____);

MONEY JUDGMENT OFFENSE 1 OFFENSE 2 OFFENSE 3

MONEY OBLIGATION IMPOSE SUSPEND IMPOSE SUSPEND IMPOSE SUSPEND

FINE

COSTS

RESTITUTION

TOTAL

TOTAL AMOUNT TO PAY THAT IS NOT SUSPENDED

(FROM OFFENSES 1,2 AND 3) \$

TERMS OF PAYMENT:

☐ ALL MONEYS, INCLUDING SUSPENDED MONEYS, BECOME DUE IMMEDIATELY

UNDER ORS 153.990(4) IF NONSUSPENDED MONEYS NOT PAID IN

ACCORDANCE WITH TERMS OF PAYMENT.

THE ATTACHED ADDITIONS TO THIS MONEY JUDGMENT ARE INCORPORATED

BY REFERENCE, SEE PAGE(S): ☐ 1 (BY _____); ☐ 2 (BY _____);JUDGMENT CREDITOR: ☐ STATE OF OREGON ☐ OTHERJUDGMENT DEBTOR: ☐ DEFENDANT ☐ OTHERDATE: SIGNATURE OF: ☐ JUDGE (☐ VIOLATIONS CLERK, WHERE ALLOWED)

000022

WIL - OSP - 0024

Citation #: DD1200095

Traffic Type: TRAFFIC/STANDARD

Date: 08/03/2012

Time: 02:02 PM

Location:

CROW RD & MP 4

EUGENE

Latitude:

Longitude:

Tactical Zone:

Beat: 531

NB: ☒ SB: ☐ EB: ☐ WB: ☐Highway: ☐ Premise Open to Public: ☐ Other: ☐Radar: ☐ Serial #:Laser: ☐ Serial #:Pace: ☐ Tested: ☐ Other: ☐

Defendant Last Name: WILKENS

Defendant First Name: JUSTIN

Vehicle Plate #: M654339

VIN: ZD4RRTT097S000026

Traffic: N/A

At Intersection: N/A

Visibility: N/A

Road Surface: N/A

Area: N/A

Fish and Wildlife Unit/Stream Code:

Juvenile Information

Parent Last Name:

Parent First Name:

Parent Address:

Parent Phone #:

Template: 026

Officer Notes:

COMPLAINT INFORMATION: (NAME) RECKLESSLY ENGAGED IN
CONDUCT BY (DESCRIBE) WHICH CREATED A SUBSTANTIAL
RISK OF SERIOUS PHYSICAL INJURY TO (NAME).

000023

WIL - OSP - 0025

OREGON UNIFORM CITATION AND COMPLAINT

Use for All Violations or Crimes Where Separate Complaint Will Not be Filed/ORS 153.045 or 153.069

☐ CRIME(S) OR ☒ VIOLATION(S) Type: TRAFFIC
 (see A below) (Not Both) (see B below)

STATE OF OREGON

CITY/OTHER PUBLIC BODY: EUGENECOUNTY OF: LANE COUNTYCase No.: 12-5393Court: LANE CO CIRCUIT COURT**DEFENDANT** The undersigned certifies and says that the following person:ID Type: _____ ID No: 9105112 State: OR Ph.: _____Name: Last: WILKENSFirst: JUSTINMI: MICHAELAddress: 25429 WOLF CREEK RDCity: EUGENEState: ORZip: 97405Passenger: ☐Sex: M Race: W DOB: 03/14/1974 Hgt: 6'1" Wgt: 200 Hair: BROEyes: BRO Lic. Exp.: 2014 Juv.: ☐ Lic. Class: C Emp. to Drive: ☐**TIME/PLACE**

At the following time and place in the above-mentioned state and county:

On or About Date/Time: 08/03/2012 02:03 PM

At or Near _____ City: _____

CROW RD & MP 4EUGENENB: ☒ SB: ☐ EB: ☐ WB: ☐
Highway: ☐ Premise Open to Public: ☐ Other: ☐**VEHICLE** Involving the following:Year: 2006 Make: APRI Model: 1000Color: ONG Type: MCRegis/Vin/ID#: M654339 State: ORAccident: ☐ Prop. Damage: ☐ Injury: ☐ Endanger Other: ☐Comp'l Veh: ☐ Haz Mat: ☐ Driver Not Reg. Owner: ☐Other: _____ Com'l Pass: ☐**OFFENSE(S)** Did then and there commit the following offense(s):HWY Work Zone: ☐ School Zone: ☐ VBR: ☐ Safety Corridor: ☐Radar: ☐ Pace: ☐ Laser: ☐ Other: ☐Alleged Speed: 120 Designated Speed: 55 Posted Limit: ☐Offense #: 811.100VBR 100+Warning: ☐Presumptive Fine1: \$1150.00Intentional: ☐ Knowing: ☐ Reckless: ☐Criminal Negligence: ☐ No Culpable Mental State: ☐Offense #: 806.010Warning: ☐ **DRIVING UNINSURED**Presumptive Fine2: \$260.00Intentional: ☐ Knowing: ☐ Reckless: ☐Criminal Negligence: ☐ No Culpable Mental State: ☐Offense #: 811.420Warning: ☐ **PASSING IN NO PASSING ZONE**Presumptive Fine3: \$260.00Intentional: ☐ Knowing: ☐ Reckless: ☐Criminal Negligence: ☐ No Culpable Mental State: ☐**OTHER**

Expt: _____

SIGNATURE

I certify under ORS 153.045 and 153.090 and under other applicable law and under penalties for false swearing, do swear/affirm that I have sufficient grounds to and do believe that the above-mentioned defendant/person committed the above offense(s) and I have served the defendant/person with this complaint.

Signature of Officer: _____

Officer name1: TIM WAREOfficer ID: 32127

Officer name2: _____

Officer ID: _____

Agency Name: LANE COUNTY SHERIFFS OFFICEIssue Date: 08/03/2012**YOUR COURT APPEARANCE DATE, TIME AND LOCATION ARE**09/04/201208:30 AMLocation: LANE CO CIRCUIT COURT125 E 8TH AVEEUGENEOR 97401

DMV Use Only

RECORD AND: ☐ CIRCUIT COURT REGISTER ☐ JUSTICE COURT DOCKET
☐ MUNICIPAL COURT DOCKETHANDLED BY: ☐ VIOLATIONS BUREAU ☐ COURTBASED ON: ☐ WRITTEN SUBMISSION ☐ APPEARANCE

DATE _____ EVENT/NOTES _____ INITIAL _____

COMPLAINT FILED

WRITTEN RESPONSE RECEIVED

ARRAIGNED ☐ MISD. ☐ 161.566 OR
☐ VIOL. ☐ 161.568 (REDUCTION)

SECURITY RELEASE AT: \$ _____ RECEIPT NO. _____

COURT/JURY TRIAL ☐ (WAIVED)

CRIMINAL RIGHTS GIVEN

ATTORNEY: _____ OSB#: _____ ☐ (WAIVED)

WARRANT ORDERED ISSUED: _____

DIVERSION AGREEMENT

CONTINUED TO REASON: _____

☐ ORS 135.355 CONDITIONAL PLEATHE ATTACHED ADDITIONS TO THIS RECORD/REGISTER ARE INCORPORATED BY REFERENCE, SEE PAGE(S): ☐ 1 (BY _____); ☐ 2 (BY _____);

JUDGMENT OF THE COURT (SUBMIT ABSTRACT COPY UNDER ORS 153.11)

OFF RESPONSE/ CHANGE FINDING DETERMINATION OFFENSE TYPE CLASS

#	PLEA	FINDING	DETERMINATION	OFFENSE SITE	TYPE	CLASS
1	G NG NC FTA	G NG	C A DISM		VM	A B C D OTH
2	G NG NC FTA	G NG	C A DISM		VM	A B C D OTH
3	G NG NC FTA	G NG	C A DISM		VM	A B C D OTH

DISPOSITION: ☐ 137.533 DEFERRED SENTENCE ☐ SENT IMP. SUS.UDR. PRIV. SUSP (TIME) CONV. SPD.

JAIL: _____

PROBATION/OTHER: _____

THE ATTACHED ADDITIONS TO THIS JUDGMENT ARE INCORPORATED BY REFERENCE, SEE PAGE(S): ☐ 1 (BY _____); ☐ 2 (BY _____); ☐ 3 (BY _____);MONEY JUDGMENT OFFENSE 1 OFFENSE 2 OFFENSE 3
MONEY OBLIGATION IMPOSE SUSPEND IMPOSE SUSPEND IMPOSE SUSPEND

FINE						
COSTS						
RESTITUTION						
TOTAL						

TOTAL AMOUNT TO PAY THAT IS NOT SUSPENDED (FROM OFFENSES 1, 2 AND 3) \$ _____

TERMS OF PAYMENT: _____

☐ ALL MONEYS, INCLUDING SUSPENDED MONEYS, BECOME DUE IMMEDIATELY UNDER ORS 153.090(4) IF NONSUSPENDED MONEYS NOT PAID IN ACCORDANCE WITH TERMS OF PAYMENT.THE ATTACHED ADDITIONS TO THIS MONEY JUDGMENT ARE INCORPORATED BY REFERENCE, SEE PAGE(S): ☐ 1 (BY _____); ☐ 2 (BY _____);JUDGMENT CREDITOR: ☐ STATE OF OREGON ☐ OTHER _____JUDGMENT DEBTOR: ☐ DEFENDANT ☐ OTHER _____DATE: _____ SIGNATURE OF: ☐ JUDGE (☐ VIOLATIONS CLERK, WHERE ALLOWED)

000024

WIL - OSP - 0026

Citation #: DD1200096

Traffic Type: TRAFFIC/STANDARD

Date: 08/03/2012

Time: 02:03 PM

Location:

CROW RD & MP 4

EUGENE

Latitude:

Longitude:

Tactical Zone:

Beat: 531

NB: ☒ SB: ☐ EB: ☐ WB: ☐Highway: ☐ Premise Open to Public: ☐ Other: ☐Radar: ☐ Serial #:Laser: ☐ Serial #:Pace: ☐ Tested: ☐ Other: ☐

Defendant Last Name: WILKENS

Defendant First Name: JUSTIN

Vehicle Plate #: M654339

VIN: ZD4RRTT097S000026

Traffic: N/A

At intersection: N/A

Visibility: N/A

Road Surface: N/A

Area: N/A

Fish and Wildlife Unit/Stream Code:

Juvenile Information

Parent Last Name:

Parent First Name:

Parent Address:

Parent Phone #:

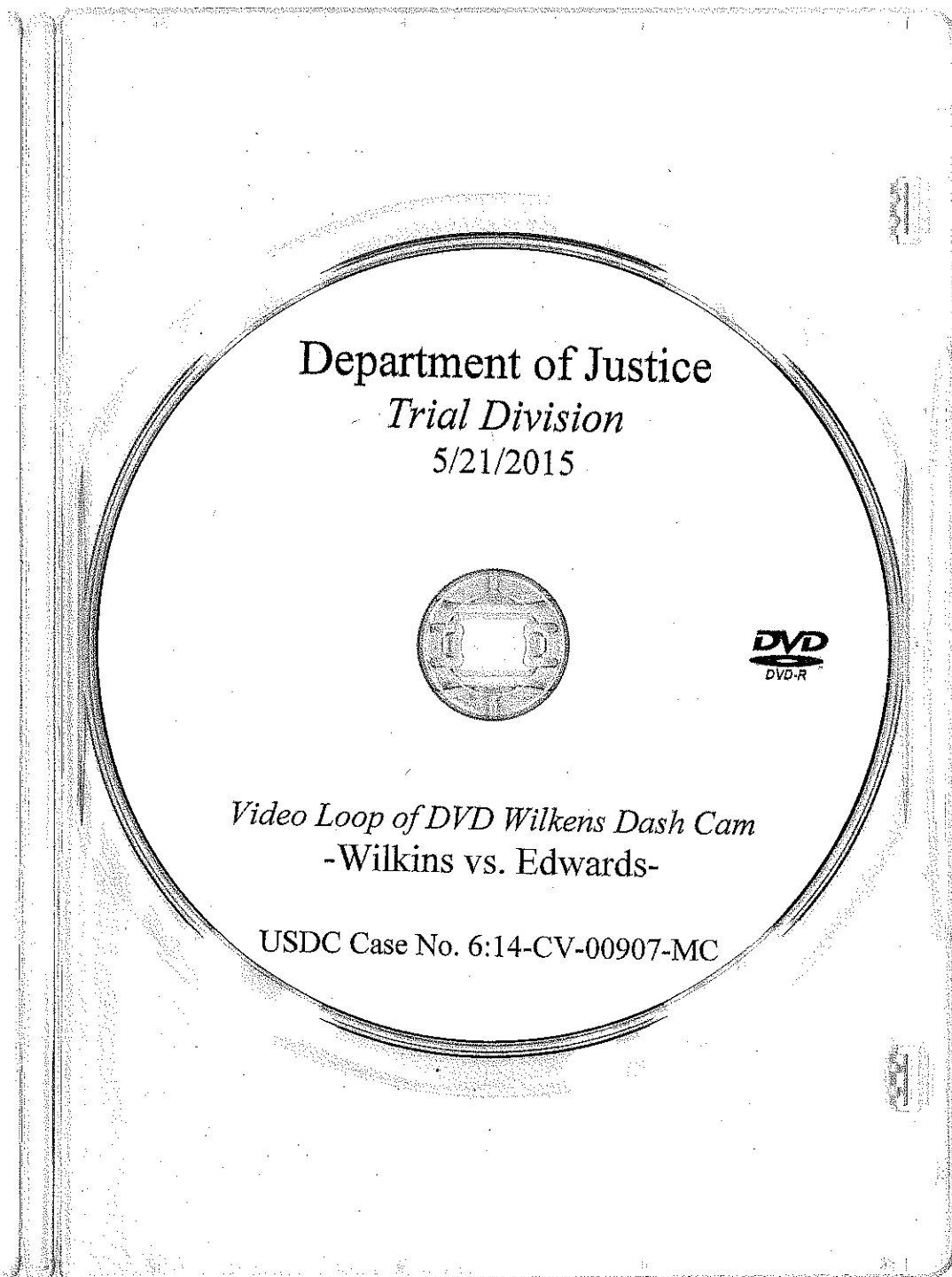
Template: 026

Officer Notes:

COMPLAINT INFORMATION: (NAME) RECKLESSLY ENGAGED IN
CONDUCT BY (DESCRIBE) WHICH CREATED A SUBSTANTIAL
RISK OF SERIOUS PHYSICAL INJURY TO (NAME).

000025

WIL - OSP - 0027



Call Information

Call Type: OFFICER SAFETY ALERT Priority: 3 15 MINS Date: 08/03/2012

Location: 36 SR / 126 SR ;SIUSLAW BANK Pref: Apt:

City: LANE State: Zip:

CA: 02 Rpt Dist: 2903 Beat: 29

Call Taken By : 35888

Call Dispatched By : 13369

Report Required : N

Disposition: 8 UNABLE TO LOCATE/GONE ON ARVL

Disposition Remarks:

Caller Information

Call Source: VIA PHONE/PERSON/PUBLIC

Caller: LANE CO Phone:

Address:

Related Incident Numbers

Police: Sheriff: Fire: EMS:

Incident Times

E911: Received: 10:32:51 Dispatch: 10:34:20 En Route: 10:34:20

Arrive: 10:52:24 Transport: INCIDENT: Cleared: 16:55:00

Unit Information

Pri Unit: 2974 Officers: WETZEL,JOSHUA WAYNE

Unit Times

Unit ID	CMD	Date/Time	Remarks
2971	D	8/3/2012 10:34:20 AM	36 SR / 126 SR ;SIUSLAW BANK
2971	EN	8/3/2012 10:34:20 AM	36 SR / 126 SR ;SIUSLAW BANK
2971	RT	8/3/2012 10:37:33 AM	2 MALES/1 WHI T SHIRT/AUTO WEAPONS/WHI HATCH BACK
2521	BU	8/3/2012 10:39:15 AM	36 SR / 126 SR ;SIUSLAW BANK
2521	EN	8/3/2012 10:39:15 AM	36 SR / 126 SR ;SIUSLAW BANK
2531	BU	8/3/2012 10:39:15 AM	36 SR / 126 SR ;SIUSLAW BANK
2531	EN	8/3/2012 10:39:15 AM	36 SR / 126 SR ;SIUSLAW BANK
2510	BU	8/3/2012 10:39:29 AM	36 SR / 126 SR ;SIUSLAW BANK
2510	EN	8/3/2012 10:39:29 AM	36 SR / 126 SR ;SIUSLAW BANK
2531	LC	8/3/2012 10:40:05 AM	ENR CHECK 36
2521	LC	8/3/2012 10:40:09 AM	ENR CHECK 36

2531 LC 8/3/2012 10:40:14 AM ENR CHECK 126
 2974 BU 8/3/2012 10:40:57 AM 36 SR / 126 SR ;SIUSLAW BANK
 2974 EN 8/3/2012 10:40:57 AM 36 SR / 126 SR ;SIUSLAW BANK
 2531 LC 8/3/2012 10:43:18 AM NELSON MT RD//
 2510 RT 8/3/2012 10:45:38 AM LCSO ASSOCIAT VEH /
 2411 BU 8/3/2012 10:51:25 AM 36 SR / 126 SR ;SIUSLAW BANK
 2411 EN 8/3/2012 10:51:25 AM 36 SR / 126 SR ;SIUSLAW BANK
 2411 LC 8/3/2012 10:51:34 AM HWY 36 AREA
 2974 RT 8/3/2012 10:51:41 AM ON CH 61
 2971 LC 8/3/2012 10:52:22 AM OUT AT BANK
 2971 A 8/3/2012 10:52:24 AM OUT AT BANK
 2411 RT 8/3/2012 11:05:10 AM =QRS.513FAE
 2550 BU 8/3/2012 11:15:41 AM 36 SR / 126 SR ;SIUSLAW BANK
 2550 EN 8/3/2012 11:15:41 AM 36 SR / 126 SR ;SIUSLAW BANK
 2974 RT 8/3/2012 11:16:07 AM CONTACTED 2924 / COMING ON DUTY / WHITAKER CREEK AREA
 2924 BU 8/3/2012 11:16:14 AM 36 SR / 126 SR ;SIUSLAW BANK
 2924 EN 8/3/2012 11:16:14 AM 36 SR / 126 SR ;SIUSLAW BANK
 2924 LC 8/3/2012 11:16:20 AM WHITAKER CREEK AREA
 2510 RT 8/3/2012 11:17:57 AM SET UP DOWNTOWN LORAIN//SIUSLAW RIVER RD
 2510 RT 8/3/2012 11:31:58 AM =QRS.QUM834
 2531 RT 8/3/2012 11:56:28 AM RES LAKE CREEK RD//GRY PATCHED UP FORD PSNG VEH
 2531 RT 8/3/2012 11:56:37 AM DROVE UP THIS RD//WASN T HATCHBACK /
 2974 RT 8/3/2012 11:57:33 AM DAVE CRANSY 541-430-8658 / WEYERHAUSER LUMBER
 2974 RT 8/3/2012 11:57:43 AM SEE IF THEY HAVE ANY CREWS WORKING ON C LINE
 2521 RT 8/3/2012 12:04:04 PM =QRS.UVX857
 2974 RT 8/3/2012 12:24:08 PM DAVE / WEST END OF C LINE /UNK ANY REASON WHY
 2974 RT 8/3/2012 12:24:15 PM GATES WOULD BE OPEN /
 2924 RT 8/3/2012 12:30:13 PM ON CH 71
 2570 BU 8/3/2012 12:30:25 PM 36 SR / 126 SR ;SIUSLAW BANK
 2570 EN 8/3/2012 12:30:25 PM 36 SR / 126 SR ;SIUSLAW BANK
 2570 LC 8/3/2012 12:30:31 PM VENETA/TERRITORIAL AREA
 2924 RT 8/3/2012 12:35:43 PM =QRS.RAY565
 2510 C 8/3/2012 12:38:51 PM CT=BOLO
 2924 RT 8/3/2012 12:42:19 PM =QRS.225AKK
 2531 RT 8/3/2012 12:44:01 PM HEADING BACK TO FLO TO GET GAS
 2531 RP 8/3/2012 12:44:16 PM REASSIGN AS PRIMARY UNIT
 2971 RP 8/3/2012 12:44:16 PM REASSIGN AS BACKUP UNIT
 2531 C 8/3/2012 12:44:16 PM CT=BOLO DC=21 /Y
 2521 RT 8/3/2012 12:45:19 PM BACK E 126W FRM M 24
 2521 RP 8/3/2012 12:45:25 PM REASSIGN AS PRIMARY UNIT
 2531 RP 8/3/2012 12:45:25 PM REASSIGN AS BACKUP UNIT
 2521 C 8/3/2012 12:45:25 PM CT=BOLO DC=21 /Y
 2411 RP 8/3/2012 12:51:10 PM REASSIGN AS PRIMARY UNIT
 2521 RP 8/3/2012 12:51:10 PM REASSIGN AS BACKUP UNIT
 2411 C 8/3/2012 12:51:10 PM CT=BOLO DC=21 /Y
 2971 C 8/3/2012 12:57:45 PM CT=BOLO DC=21 /Y
 2411 RP 8/3/2012 12:57:45 PM REASSIGN AS BACKUP UNIT
 2971 RP 8/3/2012 12:57:45 PM REASSIGN AS PRIMARY UNIT
 2550 RP 8/3/2012 1:06:55 PM REASSIGN AS PRIMARY UNIT
 2971 RP 8/3/2012 1:06:55 PM REASSIGN AS BACKUP UNIT
 2550 C 8/3/2012 1:06:55 PM CT=BOLO DC=21 /Y
 2974 RT 8/3/2012 1:15:54 PM ON SIUSLAW RD/ENR TO HWY 38/REEDSPORT
 2550 BU 8/3/2012 1:28:48 PM WHITAKER CREEK AREA
 2550 EN 8/3/2012 1:28:48 PM WHITAKER CREEK AREA

2974 LC 8/3/2012 1:32:15 PM BACK SIDE HWY 38 TO GARDNER//
 2974 RT 8/3/2012 1:33:39 PM NOW ON RSO FREQ / LOUD & CLEAR
 2974 RU 8/3/2012 1:34:20 PM REDIRECT TO CA: 03
 2570 C 8/3/2012 1:56:01 PM CT=BOLO
 2974 RT 8/3/2012 2:18:35 PM 1238 TOCH L 70
 2974 RT 8/3/2012 2:30:32 PM 1238 BACK TO 02
 2974 RU 8/3/2012 2:30:37 PM REDIRECT TO CA: 02
 2550 RP 8/3/2012 2:37:33 PM REASSIGN AS BACKUP UNIT
 2924 C 8/3/2012 2:37:33 PM CT=BOLO DC=8 /N
 2924 RP 8/3/2012 2:37:33 PM REASSIGN AS PRIMARY UNIT
 2974 RP 8/3/2012 2:37:41 PM REASSIGN AS PRIMARY UNIT
 2924 RP 8/3/2012 2:37:41 PM REASSIGN AS BACKUP UNIT
 2974 C 8/3/2012 2:37:41 PM CT=BOLO DC=8 /N
 2550 C 8/3/2012 4:55:00 PM CT=BOLO

POI

VOI

CAD Narrative

Date/Time	Remarks
8/3/2012 10:32:01 AM	CT CT VALID: BOLO
8/3/2012 10:32:50 AM	CT LC VALID: 36 SR / 126 SR ;SIUSLAW BANK
8/3/2012 10:32:51 AM	10756 HWY 126 / CONFIRMED ARMED ROBBERY WITH MACHINE GUNS UNK DIREC OF
8/3/2012 10:32:51 AM	TRAVEL / WHT HATCH BACK / LOCKED BANK / NON INJ
8/3/2012 10:33:22 AM	GO
8/3/2012 10:33:45 AM	3 AGO / FULL MASKS
8/3/2012 10:33:55 AM	PAINT BALL STYLE BLK IN COLOR
8/3/2012 10:35:27 AM	COUNTY IS ROUTING SOMEONE E
8/3/2012 10:35:34 AM	BLK BACK PACK
8/3/2012 10:35:43 AM	ONE HAD WHT SHIRT
8/3/2012 10:36:21 AM	COUNTY DOES HAVE 2 UNITS ENR
8/3/2012 10:37:29 AM	THEY WERE 2 MALES
8/3/2012 10:37:33 AM	2 MALES/1 WHI T SHIRT/AUTO WEAPONS/WHI HATCH BACK
8/3/2012 10:38:08 AM	NO SHOTS FIRED / 3 TELLERS AND 1 CUST IN VEH
8/3/2012 10:38:27 AM	NO OTHER INFO ON SUSPS OR VEH
8/3/2012 10:38:40 AM	THIS IS ALL THE INFO THE DISP HAS
8/3/2012 10:39:25 AM	M REMS: TRAVEL / WHT HATCH BACK / LOCKED BANK / NON INJ COUNT
8/3/2012 10:39:25 AM	M+ -> TRAVEL / WHT HATCH BACK / LOCKED BANK / NON INJ
8/3/2012 10:40:41 AM	SHOULD BE 3 TELLERS AND 1 CUST IN THE BANK NOT IN A VEH
8/3/2012 10:43:32 AM	,LANE CO DET: STATES MAROON DODG CARAVAN AND GREY DODGE CHARGER WERE U
8/3/2012 10:43:32 AM	SED IN BANK ROB IN CRESWELL ON JUNE 6TH, DIFFERENT BANK BUT SAME PAREN
8/3/2012 10:43:32 AM	T COMPANY,
8/3/2012 10:45:38 AM	LCSO ASSOCIAT VEH /
8/3/2012 10:47:16 AM	,PRIOR ROBBERY WAS JUNE 6TH,
8/3/2012 10:51:41 AM	ON CH 61
8/3/2012 10:57:31 AM	,DOUGLAS CO ADVISED,
8/3/2012 11:01:22 AM	,AIRD TO CH 21 & CH 23,

WIL-OSP-967

EXHIBIT E, Page 3 of 6

8/3/2012 11:02:49 AM MULT UNITS COPIED,
8/3/2012 11:04:58 AM **UPDATE PER/DEB LANE CO SO ** SUSP VEH IN ROBBERY 90ISH MODEL
8/3/2012 11:05:03 AM FORD FIEST WHI IN COLOR W/BLU INTERIOR
8/3/2012 11:05:10 AM =QRS.513FAE
8/3/2012 11:16:07 AM CONTACTED 2924 / COMING ON DUTY / WHITAKER CREEK AREA
8/3/2012 11:17:57 AM SET UP DOWNTOWN LORAIN//SIUSLAW RIVER RD
8/3/2012 11:31:58 AM =QRS.QUM834
8/3/2012 11:39:59 AM **PER DIANE W/LANE AT 1035A TO 1040A HRS TODAYBANK SUPV OBSERVED
OLDER
8/3/2012 11:40:02 AM 2D MATCHING SUSP VEH**WHI PC EB ON HWY 36 IN CURVES
8/3/2012 11:40:07 AM NEAR INDIOLA**UNK FOR SURE IF THIS IS SUSP VEH
8/3/2012 11:56:28 AM RES LAKE CREEK RD//GRY PATCHED UP FORD PSNG VEH
8/3/2012 11:56:37 AM DROVE UP THIS RD//WASN T HATCHBACK /
8/3/2012 11:57:33 AM DAVE CRANSY 541-430-8658 / WEYERHAUSER LUMBER
8/3/2012 11:57:43 AM SEE IF THEY HAVE ANY CREWS WORKING ON C LINE
8/3/2012 12:04:04 PM =QRS.UVX857
8/3/2012 12:24:08 PM DAVE / WEST END OF C LINE /UNK ANY REASON WHY
8/3/2012 12:24:15 PM GATES WOULD BE OPEN /
8/3/2012 12:30:13 PM ON CH 71
8/3/2012 12:35:43 PM =QRS.RAY565
8/3/2012 12:42:19 PM =QRS.225AKK
8/3/2012 12:44:01 PM HEADING BACK TO FLO TO GET GAS
8/3/2012 12:45:19 PM BACK E 126W FRM M 24
8/3/2012 12:45:25 PM RP CLEARED DISPO CODE D21
8/3/2012 12:51:10 PM RP CLEARED DISPO CODE D21
8/3/2012 12:57:45 PM RP CLEARED DISPO CODE D21
8/3/2012 1:06:55 PM RP CLEARED DISPO CODE D21
8/3/2012 1:15:54 PM ON SIUSLAW RD/ENR TO HWY 38/REEDSPORT
8/3/2012 1:33:39 PM NOW ON RSO FREQ / LOUD & CLEAR
8/3/2012 2:18:35 PM 1238 TOCH L 70
8/3/2012 2:30:32 PM 1238 BACK TO 02
8/3/2012 2:37:33 PM RP CLEARED DISPO CODE D21
8/3/2012 2:37:41 PM RP CLEARED DISPO CODE D8

Call Information

Call Type: DRIVING COMPLAINT Priority: 2 10 MINS Date: 08/03/2012

Location: FLORENCE @ 101 US MP 187.6-191/ Pref: Apt:
 City: LANE State: Zip:
 CA: 02 Rpt Dist: 2901 Beat: 29

Call Taken By : 35888
 Call Dispatched By : 13369

Report Required : N

Disposition: 8 UNABLE TO LOCATE/GONE ON ARVL
 Disposition Remarks:

Caller Information

Call Source: VIA 9-1-1
 Caller: LANE CO SO Phone:
 Address:

Related Incident Numbers

Police: Sheriff: Fire: EMS:

Incident Times

E911: Received: 11:25:05 Dispatch: 11:26:46 En Route: 12:38:53
 Arrive: Transport: INCIDENT: Cleared: 14:45:11

Unit Information

Pri Unit: 2924 Officers: FARRAR,LELAND V

Unit Times

Unit ID	CMD	Date/Time	Remarks
2924	D	8/3/2012 11:26:46 AM	FLORENCE @ 101 US MP 187.6-191/
2510	D	8/3/2012 11:26:46 AM	FLORENCE @ 101 US MP 187.6-191/
2510	EN	8/3/2012 12:38:53 PM	FLORENCE @ 101 US MP 187.6-191/
2510	C	8/3/2012 12:38:54 PM	CT=DRIVING DC=16 /Y
2924	RP	8/3/2012 12:38:54 PM	REASSIGN AS BACKUP UNIT
2510	RP	8/3/2012 12:38:54 PM	REASSIGN AS PRIMARY UNIT
2924	EN	8/3/2012 2:37:36 PM	FLORENCE @ 101 US MP 187.6-191/
2924	RP	8/3/2012 2:45:11 PM	REASSIGN AS PRIMARY UNIT
2510	RP	8/3/2012 2:45:11 PM	REASSIGN AS BACKUP UNIT
2924	C	8/3/2012 2:45:11 PM	CT=DRIVING DC=8 /N

POI

VOI

CAD Narrative

Date/Time	Remarks
8/3/2012 11:24:10 AM	CT CT VALID: DRIVING
8/3/2012 11:24:58 AM	CT LC VALID: FLORENCE @ 101 US MP 187.6-191/
8/3/2012 11:25:05 AM	***SIGHTING OF VEH POSS SUSP VEH***SB 5 AGO ON 101 FROM FLO / LT COLOR
8/3/2012 11:25:05 AM	SEDAN POSS HATCHBACK W/BLU INERIOR LIKE A FORD FEASTA / HIGH RATE OF
8/3/2012 11:25:05 AM	SPEED / PASSING UNSAFE / 2ND HAND INFO
8/3/2012 11:25:40 AM	CO HAS NOTIFYED REEDS PORT PD
8/3/2012 11:26:08 AM	*REEDSPORT PD ADVISED BY LANE SO//THEY ARE SETTING UP *
8/3/2012 2:45:11 PM	RP CLEARED DISPO CODE D16



INDEPENDENT MEDICAL EXAMINATION

IDENTIFYING INFORMATION

Name: Justin Michael Wilkens **Claim Number:** 107130-L151645-01
Date of Injury: August 3, 2012
Date of Examination: June 3, 2015
Location of Examination: Eugene, Oregon
Examiner: Scott Kitchel, M.D., Orthopaedic Surgery

INTRODUCTION

It was my pleasure to perform an independent medial evaluation on Justin Wilkens today.

The claimant was informed that the examination was for evaluative purposes only, intended to address specific injuries or conditions as outlined by the claims manager, and was not intended as a general medical examination.

The claimant was asked at the time of the examination not to engage in any physical maneuvers beyond what he was able to tolerate or which he believed were beyond his limits or which could cause harm or injury. The claimant was instructed that the evaluation could be stopped at any time and not to allow the evaluation to continue if it caused pain.

This is an Oregon Department of Justice Trial Division medical exam.

HISTORY OF PRESENT COMPLAINT:

Mr. Wilkens is a 41-year-old right-hand dominant gentleman who was stopped for a traffic violation on August 3, 2012. At that time when he came to a stop, the law enforcement vehicle which was following him bumped into him at approximately 3 to 5 miles an hour, knocking his motorcycle over and knocking him to the ground. He says he landed on the ground relatively smoothly and was able to roll out of that. He indicates following that he had no left shoulder pain.

Justin Michael Wilkens
Independent Medical Examination

Claim Number: 107130-L151645-01
Date of Examination: June 3, 2015

When he stood up he says the police officer was pointing a gun at him and asking him to get back on the ground. He did not immediately understand the commands, but when he started to bend and kneel to get back on the ground he indicates the officer kicked him in the left shoulder. He says he was in some shock and had no immediate pain. However, when they started to manipulate his left shoulder to put the handcuffs on he began developing left shoulder pain.

That shoulder pain worsened and he was ultimately transported by ambulance to Sacred Heart RiverBend Medical Center. At the hospital x-rays were done and they told him that he had a left clavicle fracture. He was referred for follow-up to Dr. Daniel Sheerin.

He saw Dr. Sheerin, who recommended that he undergo open reduction and internal fixation. He says this was accomplished about two weeks following the injury.

Following that surgery he did not have physical therapy, but allowed it to heal with time. He says that he returned to Dr. Sheerin in October 2012 and was told that the fracture had healed and he could be released to full activity.

Through the years he has continued to have some discomfort in the shoulder and grinding. He sought the advice of Dr. Michael Boespflug, his family doctor, in May 2014. Dr. Boespflug recommended that he follow up with Dr. Sheerin, but he was unable to do this for financial reasons.

He has not had any further treatment on the left shoulder since his final visit with Dr. Sheerin.

His past history is negative for any previous left shoulder injury, surgery, or treatment.

CHIEF COMPLAINTS/ CURRENT CONDITION:

Chief Complaint: Left shoulder pain and discomfort.

Today, he tells me his only problem is pain and discomfort in the left shoulder. He describes that as a deep, aching type pain. He would rate it at a 3 on a scale of 0-10. He notes that it is made worse with activity and shoulder range of motion. He does get improvement by resting the shoulder.

He says he also has a general sensation of some foreign bodies within the shoulder.

He says he can no longer sleep on his left side. He also gets some intermittent left hand numbness with repetitive motion of the left shoulder.

Justin Michael Wilkens
Independent Medical Examination

Claim Number: 107130-L151645-01
Date of Examination: June 3, 2015

He has not had any true left arm radicular pain. He has not had any weakness in the left arm.

CURRENT WORK STATUS:

Occupational History: Mr. Wilkens works as a laborer. He is not currently working, but says that it is not related to his left shoulder.

PAST MEDICAL HISTORY:

Conditions: Hypertension.

Operations: 1) 1989 left knee surgery. 2) 2008 left foot surgery. 3) 2012 left clavicle surgery.

Allergies: None.

Current Medications: Lisinopril.

Substance Use: He does not take other recreational drugs.

- ♦ **Tobacco:** Mr. Wilkens does not smoke.
- ♦ **Alcohol:** He occasionally drinks alcohol.

SOCIOECONOMIC HISTORY:

Marital Status: Mr. Wilkens is single, with no children.

Education: Mr. Wilkens has graduated from high school and attended some college.

Military Service: Mr. Wilkens has never been in the military.

Hobbies: 1) Dogs. 2) Spending time with animals.

RECORD REVIEW

The first medical record available for my review is a September 17, 2008 emergency department note regarding Mr. Wilkens. It is for evaluation of an injury following a motorcycle accident. The complaints are of a chin laceration and left ankle pain. X-rays are done, which show a left foot fracture. The impression is one of left midfoot fracture

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involving the navicular with chin laceration, left knee injury, and chest wall contusion. The patient is placed in a splint and have follow-up with the orthopedic service.

On September 17, 2008, two-view x-rays of the left knee are done. They show evidence of a moderate joint effusion.

On that same date a CT scan is done of the left foot, which shows a comminuted fracture of the tarsal navicular with osteo-compression osteochondral impaction injury.

On that same date, x-rays are done of the left ankle, which were interpreted as being negative.

On September 23, 2008, Mr. Wilkens undergoes open reduction and internal fixation of the left tarsal navicular by Dr. Sheerin. This is accomplished without complication.

The Driver and Motor Vehicle Services report of Justin Wilkens, dated November 17, 2014 is directly reviewed in its entirety.

The Oregon State Police incident report, dated August 16, 2012, regarding Justin Wilkens is reviewed. In it, it indicates that Mr. Wilkens' motorcycle was bumped from behind by the police vehicle. The motorcycle fell onto its left side. Mr. Wilkens landed on the ground in front of the patrol vehicle and quickly got to his feet and faced the patrol car. The officer indicates he advanced toward Mr. Wilkens and shouted at him to get on the ground. He indicates he took two steps forward, and using the sole of the boot delivered a kick to his body and again shouted at him to get on the ground.

August 3, 2012, Lane County Circuit Court affidavit of probable cause is reviewed.

The continuation report from the Lane County Sheriff's office is reviewed.

On August 3, 2012, Mr. Wilkens is transported by Eugene Fire & EMS to Sacred Heart RiverBend Hospital. At RiverBend Hospital he was seen in the emergency department for complaints of left shoulder pain. X-rays are done of the left shoulder, which show a left clavicle fracture with 2.9 centimeters of displacement. There is also a possible second rib fracture.

On August 8, 2012, Mr. Wilkens was seen at the Slocum Orthopedic Center by Dr. Daniel Sheerin. His assessment is one of a displaced mid shaft clavicle fracture with shortening. He recommends open reduction and internal fixation.

On August 14, 2012, Mr. Wilkens undergoes open reduction and internal fixation of the left clavicle fracture by Dr. Sheerin. This is accomplished without complication.

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On August 15, 2012, telephone messaging for refill of medications is completed.

On August 22, 2012, Mr. Wilkens was seen in follow-up by Dr. Sheerin. He was having some wound drainage, but otherwise doing well. X-rays show good alignment of the internal fixation.

X-ray films of August 22, 2014 are directly reviewed.

On October 3, 2012, Mr. Wilkens was seen in follow-up by Dr. Sheerin. He seems to be improving. X-rays are done, which show good alignment. Dr. Sheerin's impression is one of a healed clavicle fracture.

On May 7, 2014, Mr. Wilkens was seen in follow-up by Dr. Michael Boespflug. This was for complaints of left shoulder pain. He is noted to be status post open reduction and internal fixation of the fracture. He recommends that Mr. Wilkens follow up with Dr. Sheerin.

The United States District Court for the District of Oregon, Eugene Division complaint of Justin Michael Wilkens versus Robert Wayne Edwards, in his individual capacity; The State of Oregon, dated June 5, 2014, is reviewed.

The United States District Court for the District of Oregon, Defendants' Answers and Defenses, dated August 5, 2014 is reviewed.

The United States District Court for the District of Oregon, Plaintiff's Response to Defendants' First Set of Interrogatories to Plaintiff, dated December 22, 2014, is also reviewed.

On April 20, 2015, Heather VanMeter authors a letter to Lauren C. Regan from Justice Law Group listing potential subpoenas in this case.

Medical records related to surgical care at Sacred Heart Medical Center, dated September 17, 2008 for foot surgery are reviewed in their entirety.

Medical records related to open reduction and internal fixation of clavicle fracture, dated August 14, 2012 from Sacred Heart Medical Center are also reviewed in their entirety.

Billing records are reviewed from Sacred Heart Medical Center and Slocum Orthopedic Center.

The deposition of Justin Michael Wilkens is also reviewed in its entirety.

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PHYSICAL EXAMINATION

The claimant is right-hand dominant.

Age: 41 years, stated
Height: 6 feet
Weight: 214 pounds

In general, Mr. Wilkens is noted to be a pleasant gentleman who appears his stated age.

Mr. Wilkens arises easily from a chair. He stands erect. His gait pattern is normal. He is able to heel and toe walk.

Physical examination of the left shoulder reveals the skin to be intact. There is a normal shoulder contour. There is no swelling noted. There is a well-healed anterior incision over the clavicle. There is no point tenderness to palpation.

Bilateral shoulder range of motion testing reveals:

SHOULDER MOTION	RIGHT	LEFT
FLEXION	180 degrees	180 degrees
ABDUCTION	180 degrees	180 degrees
INTERNAL ROTATION	60 degrees	60 degrees
EXTERNAL ROTATION	70 degrees	70 degrees
ADDUCTION	30 degrees	30 degrees
EXTENSION	45 degrees	45 degrees

Motor strength in both upper extremities is 5/5 throughout.

There are no subjective sensory deficits to light touch testing.

There is no atrophy or fasciculations.

The impingement sign is negative. The impingement reinforcement sign is negative.
The apprehension sign is negative.

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There are 2+ and symmetric biceps, triceps, and brachioradialis reflexes.

There are 2+ radial pulses with normal capillary refill.

DIAGNOSTIC STUDIES

No imaging studies are available for my review.

DIAGNOSIS AND RELATIONSHIP:

Left clavicle fracture, status post August 14, 2012 open reduction and internal fixation.


DISCUSSION

I have been able to re-review the video clip which you provided me. Based upon multiple reviews of that video clip, it appears that the injury he had when the bike fell and he landed on the point of his left shoulder is more consistent with the mechanism of a left clavicle fracture than the injury when he was kicked by the officer.

ANSWERS TO SPECIFIC QUESTIONS FROM THE COVER LETTER

- 1. Can you say with any degree of medical probability, what is the etiology of his left clavicle fracture?*

Based upon my review of the medical records, his physical examination, his history, and the review of the video of the episode, within a degree of medical probability, it is the fall from the motorcycle, landing on the point of his left shoulder, which caused his left clavicle fracture.


Ronald Teed, M.D.
Orthopedic Surgeon

Dictated by: Scott Kitchel, M.D., Orthopaedic Surgery

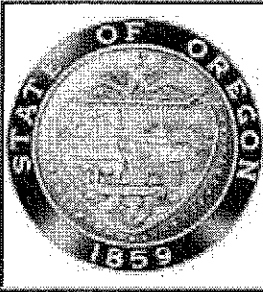
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tx: etran/rk/am
d: June 3, 2015
t: June 4, 2015
dos: June 3, 2015

If you have any questions, please contact Joni in our Quality Assurance Department
503-290-1501.

****End of Report – Electronic Signature Applied****

	Department of State Police	<p>CHAPTER: 502.7</p> <p>SUBJECT: HALTING VEHICLES - HIGH-RISK STOP</p> <p>REVISED: March 8, 1994</p> <p>SUPERCEDES: March 15, 1989</p> <p>PAGES: 3</p>
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POLICY

The inherent risk in effecting a stop is increased when there is a known element of danger to the officer or the public because of the vehicle's occupant(s). In these situations, the officer(s) must exercise additional caution to minimize the potential negative outcomes of such a contact. The guidelines in the chapter may assist in conducting such a stop.

RELATED LAWS/REFERENCES

Department Manual Chapter 502.7

RULE

1. Whenever there is advanced knowledge, or a good reason to suspect that the vehicle which is to be stopped is stolen or contains a fugitive, felon, or other dangerous person, the officer shall immediately inform Regional Dispatch, giving the officer's location, direction of travel, speed, description of the suspect vehicle, including vehicle license, and number of occupants.
2. Should an officer have to leave the vicinity of the patrol vehicle, it should be secured by locking the doors.
3. Handcuffs should be applied in all custody arrests, unless circumstances and good judgment dictate otherwise.
4. Suspects should not be searched until handcuffs are applied, unless the situation will not allow a search prior to application of handcuffs.
5. Prisoners must be searched before they are transported beyond the point of arrest.
6. If patrol vehicles are equipped with cages, the cage window will be locked any time a prisoner is placed in the rear seat.

PROCEDURE

1. When effecting a high-risk stop, the suspect vehicle should be followed until other officers can assist. The vehicle can then be stopped in a pre-determined area where there will be less chance for the suspect(s) to flee. Maximum protection is then be provided to the officer and the public in the event of gunfire, foot pursuit, or other potential hazards.

2. In most cases a single officer should not intentionally effect a high-risk stop, although circumstances may dictate that an approach to the suspect(s) be made by an officer not utilizing an assisting officer. An officer should also remain cognizant of the possibility that the suspect(s) may initiate the stop at any time.
3. An officer will usually have an advantage if the patrol unit is parked 35 to 40 feet from the suspect vehicle, and the officer immediately opens the door and assumes a cover position. The officer should clear the weapon he/she feels necessary and be alert in preventing occupants of the halted vehicle from separating. Vehicle occupants should be ordered to exit the vehicle in a firm, commanding voice and a positive manner, leaving no room for doubt that the officer is in absolute control and intends to see that his/her orders are implicitly and promptly obeyed.
4. One suggested method of removing felons or dangerous persons from a vehicle is to order all occupants to place their hands on top of their head, interlacing their fingers with palms up, and remain in that position until instructed further. The officer must not rush, and must be certain each command is followed exactly before another command is given.
 - A. Starting with the driver, the occupants should be removed from the vehicle one at a time, and from only one side. The driver should be instructed to take the ignition keys out and slowly step from the vehicle. His/her back should remain toward the officer, and he/she should be ordered to back slowly toward the rear of the vehicle with hands remaining on the head, and to kneel down with ankles crossed, and to remain in that position.
 - B. All other passengers should be removed in the same manner. Sufficient interval between the suspects should be maintained to minimize any attempts at conversation, eye contact, and gestures, and they should be positioned in clear view of the officer.
 - C. The officer should confine his/her remarks to positive, firm orders. Prior to an approach to the suspects, an order commanding any additional occupant(s) to exit the vehicle may help to ensure there is not an unseen or hidden persons in the vehicle.
 - D. After all occupants are out of the vehicle and positioned, the officer can begin the approach to the suspects.
5. Officers responding to assist another officer who is effecting a high-risk stop should upon arrival notify Regional Dispatch of the status at the scene. The assisting officer will follow directions of the primary officer and will generally be positioned on the right side of the patrol unit being used by the primary officer. The assisting officer will maintain surveillance of the suspect(s) from a cover position until all prisoners are secured. The assisting officer will continue to give proper armed surveillance on the halted vehicle until such time that the primary officer has secured the vehicle.
6. Officers operating specialty patrol vehicles without cages, such as the Mustang, should not transport unruly prisoners where injury may be inflicted to the officer, or damage caused to the patrol vehicle interior. If the need dictates, a patrol car with a cage should

be summoned.

- A. If it is necessary to transport a prisoner in the specialty patrol vehicle after handcuffing, the lap seat belt should be looped at least once around the chain between the cuffs. The buckle should then be drawn to the rear and fastened to the snap ring on the roll bar brace. The lap/shoulder harness can then be placed around the prisoner to provide additional security.
- B. Specialty patrol vehicles have been equipped with a five foot length of rope intended for securing the prisoner's legs and feet. The loop should be placed around the prisoner's legs below the knees, and the loose end passed to the right of the passenger seat between the seat and the door sill. The rope should then be tied to the roll bar utilizing any type of quick release knot.